HEARING

BEFORE THE

SUBCOMMITTEE ON COMPENSATION, PENSION, AND INSURANCE

OF THE

COMMITTEE ON VETERANS' AFFAIRS HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

FIRST SESSION

APRIL 17, 1985

Printed for the use of the Committee on Veterans' Affairs

Serial No. 99-11

U.S. GOVERNMENT PRINTING OFFICE

49-093 O WASHINGTON : 1985

H761-27

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COMPENSATION, DIC, SGLI AND VGLI PROGRAMS

WEDNESDAY, APRIL 17, 1985

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON
COMPENSATION, PENSION, AND INSURANCE,
COMMITTEE ON VETERAN'S AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:08 a.m., in room 334, Cannon House Office Building, Hon. Douglas Applegate (chairman of the subcommittee) presiding.

Present: Representatives Applegate, Montgomery, Dowdy, Evans, Solomon, Hammerschmidt, and Molinari.

OPENING STATEMENT OF CHAIRMAN APPLEGATE

Mr. APPLEGATE. Good morning. This morning we meet to receive testimony on a number of bills affecting the compensation program of the Veterans' Administration.

In his fiscal year 1986 budget, the President recommended a 4.1-percent cost-of-living increase in compensation and DIC. Our committee concurred with this proposal and it was included in our report to the Budget Committee last month. As you know, the Budget Committees of the House and Senate have not yet reported and adopted a concurrent budget resolution. Today we will receive testimony on H.R. 1538, the committee bill, and a draft bill submitted by the administration for a COLA. Both bills provide for a 4.1 percent COLA.

The administration draft bill also includes a number of proposals affecting the compensation and pension programs.[1] The draft bill would change the definition of "active duty" and "active duty for training" for certain National Guard or Reserve personnel. It would change the ending date of compensation or pension based on school attendance of children over 18 and under 23 years of age, and would liberalize compensation benefits for certain veterans with severe service-connected disabilities of one lung and who later suffer nonservice-connected disabilities of the other lung. The administration also proposes to extend the authority to operate a regional office in the Republic of the Philippines through fiscal year 1988.

We will also receive testimony on H.R. 1537, a bill to pay DIC to the surviving spouse of a former Commandant of the Coast Guard at the same rate as paid to spouses of the chiefs of staff of the other uniformed services, and H.R. 1709, a bill to increase the max-

[1] See p. 52.

imum life insurance coverage under the SGLI Program from $35,000 to $50,000 and to extend eligibility to members of the individual Ready Reserve and the inactive National Guard.

Another bill of some importance which we will look at is H.R. 1568, which is a bill introduced by our colleague, the Honorable Marvin Leath of Texas, to require the Veterans' Administration to maintain a full service regional office in each State. The President's budget for fiscal year 1986 contained a proposal to consolidate the principal regional office functions into only three large regional offices, commencing in fiscal year 1986. Although the acting general counsel issued an opinion a few weeks ago that the Administrator had complied with existing law in providing this committee with detailed plans on the implementation of the planned consolidation, we still have not received any definitive information on how and when the consolidation will take place.

As chairman of the subcommittee having jurisdiction over one of the mainstays of the VA program, the compensation and pension programs, I am very concerned that the failure to provide the committee with anything approaching detailed plans on the consolidation at the same time as the budget was submitted would serve to deprive the committee of an adequate opportunity to evaluate the impact of such consolidation.

We will also receive testimony today on H.R. 85, the Disabled American Veterans bill to revise the formula for payment of DIC to surviving spouses of veterans whose deaths are related to military service.

At this time I would like to recognize the chairman of the full committee, the Honorable Sonny Montgomery, for any comments that he would care to make.

Mr. MONTGOMERY. Thank you, Mr. Chairman. It looks like you've got a full plate here this morning and it looks like a number of these items seem to be very important as far as I'm personally concerned. I appreciate you giving me this opportunity.

Mr. APPLEGATE. Thank you, Mr. Chairman.

This is the first meeting of the subcommittee since our colleague from New York has joined us as the ranking minority member. I am really very delighted to have him here. I want to recognize and welcome my friend and colleague, the Honorable Gerald Solomon, for his opening statement or any remarks that he would like to make.

OPENING STATEMENT OF HON. GERALD B.H. SOLOMON

Mr. SOLOMON. I would like to thank the chairman. .

As you just mentioned, this is my first meeting with the subcommittee as the ranking Republican member, after serving for a number of years as ranking Republican member on Employment and Training. I am excited about serving on this panel, not only because of the importance of the issues under this jurisdiction, but also because of the high regard which I hold for you, Mr. Chairman.

Since I was first appointed to the Veterans' Affairs Committee some 7 years ago, I have always commended and admired your leadership as a vocal advocate for veterans' programs and benefits,

the same kind of outstanding leadership that both Sonny Montgomery and John Paul Hammerschmidt have shown in leading this committee. I look forward to a long and productive relationship, Mr. Chairman, and I am confident we can accomplish a great deal for America's veteran community.

This morning we will be covering a wide range of compensation and insurance issues. All of the proposals before us today deserve our careful and thoughtful consideration. We will be examining President Reagan's original budget, as you have said, to provide for a 4.1-percent cost-of-living adjustment in compensation and DIC, as well as a slightly different version proposed by our committee, which includes several other provisions.

Mr. Chairman, in my judgment, our discussion of COLA's today must be tempered by the tentative agreements that were reached in the other body regarding cost-of-living increases for other Federal benefits, including Social Security, and I feel confident that any final agreement reached by this committee will be fair in all respects, treating our veterans with the respect that they have earned and treating them with, more than anything else, equity.

We will also receive testimony today on a proposal to increase benefits under the Servicemen's and Veterans Group Life Insurance Program and on changes recommended by the Disabled American Veterans, which I'm a member of, with respect to the calculation of DIC benefits.

As the prepared statements of our witnesses reveal, major changes in the DIC rates will require a great deal of careful discussion and study. This is a complicated issue, but its complexity should not deter us from a thorough review of it. I am confident that this subcommittee will not shirk its responsibilities in this regard and that we will recommend changes if we find them to be necessary and appropriate.

This concludes my statement, Mr. Chairman, and I would just like to reiterate how much I am looking forward to working with you during this coming term.

Mr. APPLEGATE. Thank you very much, Mr. Solomon. I would just add that I'm very happy to have you on board in this subcommittee as the ranking minority member. I know of your sincerity and devotion and commitment to the veterans of this country and I know that we'll have a good working partnership.

At this time I would also like to recognize one of the great members of this committee who has served as the ranking member of the full committee, who also is a great friend of the veterans of this country and has done so much in pushing for beneficial legislation, and that is John Paul Hammerschmidt of Arkansas.

OPENING STATEMENT OF HON. JOHN PAUL HAMMERSCHMIDT

Mr. HAMMERSCHMIDT. Thank you, Mr. Chairman. I thank you for your excellent leadership of this subcommittee.

The bills that will result from our hearing today will show that Congress gives its highest priority to compensation for service-connected veterans, their dependents and survivors. This is as it should be.

Mr. Chairman, the President's budget calls for a 4.1-percent increase in compensation and DIC. This is the same amount requested for Social Security recipients and for pensioners who are indexed to Social Security. Since receipt of the President's budget, however, negotiations have been taking place between the leadership of the other body and White House officials. We now have substantial indications that some figure less than 4.1 percent may be proposed for Social Security raises and for recipients of other entitlements.

Mr. Chairman, no matter what finally transpires, it is my hope and belief that our committee and the entire Congress will treat service-connected cases with fairness and compassion. That has been our record and I believe it will continue to be our record.

Mr. Chairman, as you stated earlier, Mr. Solomon of New York is now the ranking member of this very important subcommittee. He is one of our most capable members and I congratulate him on assuming this responsibility and I associate myself with his previous remarks on all the matters before us.

Mr. Chairman, let me say that there is a Republican conference to discuss the Nicaraquan freedom fighters as well as a Water Resources Subcommittee meeting going on concurrently with this meeting, so if I slip away it won't indicate my lack of interest in this subject matter. But I may have to leave a little early.

Thank you, sir.

Mr. APPLEGATE. Thank you, Mr. Hammerschmidt.

Our colleague, the Honorable Marvin Leath of Texas, the chief sponsor of H.R. 1568, is submitting a statement for the record in support of his bill. His statement, without objection, will be made a part of this hearing record.

[The statement of Marvin Leath appears at p. 52.]

Mr. APPLEGATE. Several of the veterans' organizations, including the Blinded Veterans' Association,[1] the Jewish War Veterans,[2] the Military Order of the Purple Heart,[3] and the American Legion [4] have also submitted statements which will, without objection, be made a part of the hearing record. The hearing record will be kept open for a period of 7 days following this hearing for the purpose of receiving these statements.

Mr. APPLEGATE. Our first witness today will be Mr. John Hagan, acting chief benefits director. I understand that Mr. Hagan has three witnesses accompanying him. I know that you have one or two who are new to the witness process, or at least to this committee, as I understand.

Mr. HAGAN. That is correct.

Mr. APPLEGATE. So at least they are making their first appearance before this or, I understand, any other subcommittee.

Mr. HAGAN. I'm not sure about the general counsel.

Mr. APPLEGATE. OK. I won't give you any more of those tough questions. At any rate, I will let you introduce them and I welcome you to the committee. I look forward to hearing your statement.

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[1] See p. 86.
[2] See p. 88.
[3] See p. 89.
[4] See p. 90.

STATEMENT OF JOHN HAGAN, JR., ACTING CHIEF BENEFITS DIRECTOR, VETERANS' ADMINISTRATION, ACCOMPANIED BY DONALD L. IVERS, GENERAL COUNSEL; GERALD MOORE, DIRECTOR, COMPENSATION AND PENSION PROGRAM; AND JOHN VOGEL, DIRECTOR, REGIONAL OFFICE AND INSURANCE CENTER, PHILADELPHIA

Mr. HAGAN. Thank you, Mr. Chairman. It is a pleasure for me to appear before you this morning.

I have on my left Mr. Donald L. Ivers, the new general counsel of the Veterans' Administration. It is his first appearance not only before one of the subcommittee but the full committee. On my right is Mr. Gerald "Jerry" Moore, who is the newly appointed Director of our Compensation and Pension Program. I also have with me John Vogel, the Director of our Regional Office and Insurance Center in Philadelphia.

That's it, sir.

Mr. APPLEGATE. You may proceed, Mr. Hagan.

Mr. HAGAN. Thank you.

Mr. Chairman, with your permission, I would request that my statement be made a part of the record and I will attempt to brief my remarks as rapidly as possible.

Mr. APPLEGATE. That will be fine and, without objection, your statement will be made a part of the record.

Mr. HAGAN. Thank you, sir.

It has been mentioned that the administration has requested a 4.1 percent COLA adjustment for both compensation and DIC benefits. At the time we submitted this, this was the estimated cost-of-living increase that would be occurring. We now are suggesting that the compensation and DIC COLA increase be the same as what is granted to recipients of Social Security benefits.

We recognize the agreement that was made between the Senate leadership and the administration just a few weeks ago, but we want to emphasize that we continue to support a COLA for our recipients.

This adjustment would apply not only for the scheduled evaluations up to 100 percent, but also would apply for those veterans in receipt of special monthly compensation and those receiving clothing allowances.

Our bill differs somewhat from what has been proposed under H.R. 1538, inasmuch as we would like to use the procedure of rounding down instead of going to the nearest dollar amount. This method would result in some savings if it was done in that manner.

You have mentioned, Mr. Congressman, that one of the sections of this bill provides for the termination or discontinuance of school age dependents on their 18th birthday. We think this is something that should be done as it would be the same as other provisions in the law on reducing benefits to children.

We have also asked that section 101 be amended to change the definition of "active duty for training." This is to bring in the National Guard and Air National Guard members when they are on active duty for training in excess of 181 days. This would give these individuals an opportunity to qualify for loan guaranty benefits and, in some instances, health care benefits.

We further request consideration on the adoption provision involving foreign adoptions. We are requesting that we be allowed to provide for payments to children that were adopted, but only in those cases where the veteran's entitlement to disability or pension arose after the veteran started to receive benefits. What I'm saying there, sir, is that the child would have to be adopted and then later the veteran would be entitled to benefits.

You have mentioned earlier about the paired organ impairment rule. We would like it to include lungs. Where one lung is service-connected and something happens to the other lung, then we would also treat that as being service connected as well.

We are requesting that the authority to operate an office in Manila be extended through 1988. We think this is the more effective, cost-efficient way to handle veterans' claims in Manila. It would entail probably an expenditure of about $1.4 million a year.

The next item I would like to discuss is the bill to provide the surviving spouse of a Coast Guard Commandant the same rate of DIC as payable currently to the chiefs of staffs of the other branches of service. The chief of the Coast Guard is now in receipt of the same type of benefits as the chiefs of the other services and we think equity would provide for the payment of the same amount to the Commandant of the Coast Guard's survivor.

The next bill that I would like to discuss is the proposal to increase to $50,000 from the current $35,000 the maximum amount of coverage of the servicemen's life insurance. We have no problem with this increase. This is a program that pays for itself through the payments of premiums by the servicemen and women, but we would like to defer further comment on this proposal to the Department of Defense. In addition, this provision would also cover some National Guardsmen and also some inactive reservists. We have no problem with that because, again, as I say, it is payment that should go with premiums.

We do have one comment or request, that this proposal was to be effective January 1, 1986. Mr. Chairman, we would request that if this provision becomes effective, that it be 90 days after the signing of the legislation in order that we may gear up to implement the program.

I would like to make my comments at this time on H.R. 1568, Mr. Leath's bill, on maintaining a regional office in each of our States. Mr. Chairman, consolidation planning was presented as part of the President's budget and at that time, when we appeared before the House Veterans' Affairs Committee, Mr. Walters said that he had reached an agreement with the Office of Management and Budget, that no action would be taken to consolidate the regional offices, that this would all be deferred pending a review by a private contracting company of modernization in the department.

We do not see the need for this legislation at this time, because no final decision has been made on consolidation. We will keep members of the committee advised of any actions that we take in the future. We are expecting later in the summer a report from the contract group as to what they recommend that our organization should be in the future.

Finally, Mr. Chairman, I would like to comment on H.R. 85, the restructuring of the DIC rates for survivoring spouses.

We, the Veterans' Administration, believe that the current formula should only be revised if an alternative is offered which clearly would allocate available resources in a more equitable manner. We do not believe that H.R. 85 does this. We think that to use DIC as either a reward or an inducement for retention of service personnel was not the intent of the payment of DIC.

Mr. Chairman, I think roughly that will conclude my comments at this time. I will be pleased to answer any question you or other members of the subcommittee may have.

[The statement of John Hagan appears at p. 58.]

Mr. APPLEGATE. Thank you, Mr. Hagan. I appreciate your statement.

I did have a couple of questions I would like to throw out. You have proposed an adjustment in the rates which you say are key to the anticipated cost-of-living increases in Social Security and VA pensions. And it is at 4.1. But yet, further on, it gets down to what would be less, according to the CPI, a 2-percent increase, which apparently has already been determined by your agency.

Why did the administration submit the 4.1 percent in the first place?

Mr. HAGAN. At the time the 4.1 was submitted, Mr. Chairman, it had been agreed between our Administrator and the administration that this is what we would do. Early on there had been some suggestion that there would be no COLA adjustment recommended by the administration. Mr. Walters, our Administrator, said that if anyone was going to get a COLA increase, then veterans were going to get it also. So he did meet with the White House staff—and may have gone as high as the President—and got the President to agree that we would submit a COLA adjustment for our service-connected veterans.

Mr. APPLEGATE. But according to the statement now, that although it's a 4.1, everything is directed towards the Social Security and the pension increase of 2 percent——

Mr. HAGAN. Yes.

Mr. APPLEGATE [continuing]. Which, in effect, really isn't 2 percent because, as I understand it, it is 2 percent up to 4 and nothing moves until it gets up to 6, so it's always going to be 2 percent behind what the index would state.

Mr. HAGAN. It would be 2 percent behind what the index would say. But we are also recommending that if there is a percentage increase above the 4.1, then this would also be considered and granted to the service-connected disabled veteran.

Mr. APPLEGATE. Would the administration oppose the 4.1-percent increase, then?

Mr. HAGAN. Yes, if other Federal benefits are capped, because we are saying that veterans are willing to bear their burden to help this country, and if this is the policy of the administration on COLA adjustments, then the Veterans' Administration and the administration as a whole would go along with that.

Mr. APPLEGATE. Let me ask you this. Neither of the two COLA bills before us today would increase the special monthly compensation, which is under section 314(k), which has presently been $62, and as I understand, the rate has not been changed since 1979.

How many veterans do we have receiving the benefit under (k) and how much would it cost to give them a 4.1 percent, or whatever it is, or the 2 percent, whatever it is? Has there been any estimate made on that?

Mr. HAGAN. I am going to ask Mr. Jerry Moore to respond to that question, sir.

Mr. APPLEGATE. All right.

Mr. MOORE. I believe that the (k) award, if it was at 4.1 percent, it would probably only equate out to a couple of million dollars, about $2 million. Currently, my staff told me that if it was done under the 2 percent, it would be about a million at this time.

I don't have the exact total number of people who are receiving (k). Let me check.

Mr. HAGAN. We'll submit it for the record.[1]

Mr. APPLEGATE. If you would, I would appreciate that very much.

Something that was pointed out, the net result savings of your bill over 1538 would have no significant impact on the actual benefits provided, and that's rounding down to the nearest buck.

Mr. HAGAN. Yes.

Mr. APPLEGATE. I guess what it is, it obviously isn't anything that would have to do with dollar amounts, because we wouldn't be talking about a lot of dollar amounts, but I think it's a matter of principle. So in one respect it would have some kind of an impact. Why the Government and not the veteran?

Mr. HAGAN. Currently we do round down on the payments of pensions and some of our other benefits. This would, I am told, save approximately $16.3 million in the first year and in the outyears it would save approximately $19.5 million a year.

On an individual basis, we're talking about less than 99 cents, or less than $12 a year, that these benefits would be reduced.

Mr. APPLEGATE. So if our bill was adopted, which would round up or down, whichever was closer, it would maybe be a little bit higher, but not much.

Mr. HAGAN. No, sir. As I say, it would only cost about another $19.5 million a year.

Mr. APPLEGATE. I thank you very much for your answers, Mr. Hagan. I appreciate that.

I would now recognize the ranking member, Mr. Solomon.

Mr. SOLOMON. Thank you, Mr. Chairman.

Mr. Chairman, I also am going to have to leave here very shortly. Being a ranking member on a Foreign Affairs Subcommittee that is meeting on an important issue at 10 o'clock, I have to be there. But I will be coming back if we're still in operation here.

Let me just ask you concerning the consolidation proposals. Is the VA going to consider withdrawing the proposal, which is very controversial and which nobody seems to agree with, so that it would negate us having to act on this legislation? Is there any possibility of that?

Mr. HAGAN. No, sir; I don't think there's any possibility for the proposal to be withdrawn. However, I would like to add this caveat, that the Administrator did meet with Mr. Stockman on this subject

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[1] Information subsequently supplied by the VA indicates there are approximately 90,000 veterans receiving the (k) award.

and got him to agree to back off on it until we could complete this modernization study. The modernization study will come back with some facts for us in the Veterans' Administration to determine what our organization would be in the future. Consolidation is still part of that option on reorganization.

Mr. SOLOMON. I understand, Mr. Hagan, that on March 16 the Administrator did write to David Stockman in which he said that the consolidation was only one of the alternatives. I can just tell you that there is no support for this consolidation effort. I, for one, would like you to take a message back that if we're not going to act on it, they might better do away with it. It forestalls us dealing with the legislation.

What are the other alternatives that are possible? Do you know that?

Mr. HAGAN. One of the other alternatives would be colocation on hospital grounds. That is a proposal that we have discussed in the past, one that Chairman Montgomery has been very interested in, so that would be one of the options.

The other option is to stay as we are currently, and with modern technology, to be able to do a better job in delivering services to our beneficiaries. But what will come out of this study, sir, I do not have any idea at this time.

Mr. SOLOMON. Do you agree with general counsel's opinion, that the proposal to consolidate the regional offices complies with current law?

Mr. HAGAN. I agree with the general counsel.

Mr. SOLOMON. I just got back from the Philippines yesterday, as a matter of fact, and I would just like to know if you really save money by having an office in the Philippines. Because you pay most of our employees there in pesos, and with the value of the peso today against a strong American dollar, it just seems to me that you're not saving money by doing that.

What's your feeling on it?

Mr. HAGAN. Your statement is correct, sir. If we had to pay employee salaries in U.S. dollars to an equivalent number of people in the States, it would cost us much more to do the job for the Philippines. Right now, roughly, the peso is about 5 cents to the dollar. Therefore, the nationals that we employ there are being paid at the peso rate and not at the dollar rate, so we do save money by having that operation in the Philippines.

If we did not have it there, we would be in big trouble, because we would have to be traveling back and forth to the Philippines doing a lot of field investigation work, and I'm not sure that would work, sending Americans over there to go out to barrios and make field examinations, whereas we do use natives now.

Mr. SOLOMON. Not only that, but it would be highly inefficient.

Mr. HAGAN. It would be inefficient. There would be a lot of delays in making determinations. So yes, I agree with you, sir.

Mr. SOLOMON. Mr. Chairman, I have used my 5 minutes. Thank you.

Mr. APPLEGATE. Thank you, Mr. Solomon.

Mr. Hagan, I assume that you do support the retention of the office in the Philippines.

Mr. HAGAN. Very much so, sir.

Mr. APPLEGATE. And one of those reasons is because of the strong dollar and the weak peso. But I wonder what position the administration is going to take when we get the deficit reduced, the budget balanced, and there is no deficit and the dollar value comes down and the peso goes up. Will they then continue to operate that?

Mr. HAGAN. My feelings on that would be that we would continue to operate that office, even when the dollar is not as strong as it is now. It was up years ago at the 50-percent rate and we still operated that office there. There were still savings by using the nationals to do the job in the Philippines.

Mr. APPLEGATE. So there are strong moral arguments for it rather than economic.

Mr. HAGAN. There are strong moral arguments for it.

Mr. APPLEGATE. The gentleman from Illinois, Mr. Evans.

Mr. EVANS. Mr. Hagan, on page 5 of your statement you proposed to extend the principle of "paired organ impairment" to certain disabilities of the lungs. Why do you stop there? Why don't you extend this principle to other paired extremities, arms and legs? Don't the same criteria and rationale apply?

For example, the monthly compensation for the loss of a leg at the ankle is $311. The monthly compensation for the loss of both legs at the ankle is $1,506. Is it the service-connected or nonservice-connected leg that is worth $1,195 per month?

Mr. HAGAN. I'm going to ask Mr. Moore to respond, sir.

Mr. MOORE. We look at the impaired organ, especially the organs such as the lung, kidneys, the eyes or whatever, as things that can be considered very debilitating. The most you can pay for one service-connected lung is 60 percent. If you have a deterioration in the other lung, it becomes a very life-threatening situation.

We have looked at the extremities in the past and there is now a special (t) category for it. I think there are a number of veterans under this at this particular time. The nonservice-connected disability of a leg or other extremity is not life-threatening.

Mr. EVANS. I understand that same treatment is given to the eye and ear injuries. Are they considered life-threatening?

Mr. MOORE. No. However, they are disabilities which a veteran cannot easily overcome.

Mr. EVANS. Thank you.

Thank you, Mr. Chairman.

Mr. APPLEGATE. Thank you, Mr. Evans.

Mr. Moon, our counsel, has some questions that he would like to pose.

Mr. MOON. Mr. Hagan, I would like to discuss briefly the proposal to change the ending date for children attending school. It is my understanding today that if a child drops out of school, either scheduled or unscheduled, you allow benefits through the end of the month in which the child last attended school.

Mr. HAGAN. True.

Mr. MOON. You propose to change that now to the effective date of last attendance.

Mr. HAGAN. Yes.

Mr. MOON. I want to talk about the type of case which you probably encounter quite often. The child graduates from high school at age 18 and enrolls in a 4-year college. You get a certification from

the school that says the child will start school in September of 1985 and graduate 4 years later.

Now, the college has not set up their calendar for that year out in the future and they can only tell you the month the child will graduate. Under today's law, you're permitted to make your award adjustment with an ending date based on that month in which the child will discontinue training.

Under your proposal, aren't you almost guaranteeing that you're going to have to work that file again, at least once or twice, during that last year so you will know what the exact ending date is?

Mr. HAGAN. That would be true, Mr. Moon.

Mr. MOON. If you have to handle the file, write a letter, and require the school to write a letter, and you do that thousands and thousands of times a year across this country, the Administrator's transmittal letter says that the administrative costs would be less than $100,000. I seriously question that.

Number two, you say it will save less than $1 million a year, so it looks like you're going to come out with a wash here, creating a lot of problems, a lot of overpayments that you can't stop, multiple handling of the files, for less than $1 million a year in savings, and probably the administrative costs would exceed the savings you're going to realize.

Is that too far off base, Mr. Hagan?

Mr. HAGAN. I really don't think it's too far off base, but you've got to remember that a lot of these things we can do by using the computer. We would insert a diary control in the computer in hopes that we could generate a letter that would go out the previous month before termination. Whether or not we would come out with the savings that have been estimated, I'm not sure. But it is something that we looked at and decided that this was probably a way we could do it, and it would bring this provision of the law into compliance with other provisions in the law, terminating on the effective date instead of the end of the month rule.

Mr. MOON. Let's think about an unscheduled termination. A child for some reason drops out of school, quits, gets married, for any reason, drops out unscheduled. The child drops out on the second day of the month. The family will have to communicate that to the VA. Somebody in the VA has got to pick up on that and work that case and provide an immediate reduction.

Now, I am told that you have to deal with your computers somewhere around the 13th or the 15th of that month to stop that check.

Mr. HAGAN. That's true.

Mr. MOON. So aren't you virtually guaranteeing an overpayment of a few bucks, maybe less than 5 or 10, in virtually all of these cases? Won't that generate a lot of complaint mail, a lot of committee on waivers actions? Won't the administrative burden just be absolutely unnecessary to save just a few bucks?

Mr. HAGAN. It's going to create overpayments, because any time that we are told, after the fact, that there has been some act that will terminate benefits, it is very seldom we get the information on a stop payment into the system to reduce that. So you are correct, it would require some efforts on our part. But we think that in a lot of instances, especially where the child is in school as a depend-

ent of the service-connected veteran, that we would be able to recoup that money from the veteran's benefits.

Mr. MOON. One more question on a different subject.

On your limitation on foreign adoptions—I appreciate the problems you're having with some fraud and abuse over there—but I'm worried about this type of legitimate case, if you really wouldn't be hurting someone.

Let's imagine a veteran in receipt of compensation. He has a brother who has a minor child. His brother and his wife are killed in an automobile accident and the brother who is already in receipt of compensation takes in that child and adopts it. Those are common occurrences throughout the world.

Now, you are trying to prevent some abuses, but wouldn't your change in law prevent this veteran from receiving any benefits for that child, when it is something that is obviously good for society, regardless of what country you live in?

Mr. HAGAN. In those cases you are correct.

Mr. MOON. Thank you, Mr. Chairman.

Mr. APPLEGATE. Mr. Hagan, one quick question for information on the SGLI. Of course, according to 1709, I think it is, it would extend it to other numbers—the Individual Ready Reserve and the Inactive National Guard.

Is the SGLI, in the case of a death, paid only when the person is on duty, or if he was working on his roof and fell off and was killed doing some domestic chores?

Mr. HAGAN. May I ask Mr. Vogel to respond to that question.

Mr. VOGEL. In the case of a part-time guardsman, that is, those who are not assigned to a unit that is required to drill sir, they are covered in that program while they're at meetings and on drills. Not all are covered in the event of a death as you indicated, doing household chores and falling off a roof.

Mr. APPLEGATE. OK. But if you're a full-time military person, that would be regardless of what you were doing?

Mr. VOGEL. That's right, sir. There would be full coverage in the amount for which he's paying a premium.

Mr. APPLEGATE. Mr. Moon would like to pursue that line of questioning for just a moment.

Mr. MOON. Just to clarify this coverage, part-time versus full-time, for National Guard. I would like to know if my understanding is correct.

For a man who is participating in a Reserve or Guard unit which drills at least 12 times a year, he has full-time coverage. There are, however, a small number with part-time coverage which only protects them while they are participating in training; is that correct?

Mr. VOGEL. Yes, sir.

Mr. MOON. Whereas, if a retired reservist, not participating in training, he's covered, he pays a higher premium and he has around-the-clock coverage; is that correct?

Mr. VOGEL. Yes, sir.

Mr. MOON. Thank you.

Mr. APPLEGATE. Thank you, Mr. Moon.

Counsel for the minority has some questions. Mr. Wilson.

Mr. WILSON. Mr. Hagan, changes in DIC, of course, are going to be considered today, and you have discussed them in your testimo-

ny. Do you, or does the Veterans' Administration, have any concerns about the fairness of the current law, and do you have any suggestions or could you supply some suggestions for the record as to how that particular law might be improved?

Mr. HAGAN. Mr. Wilson, we have done studies concerning the payment of DIC. The last one that we did was completed in 1978. It was our opinion at that time that the current system, or the system in force at that time, was about as equitable as we could get for the payment of DIC. We don't know of any fairer way of doing it at this time.

Mr. WILSON. I think, Mr. Hagan, you will be hearing today a number of proposals from the various veterans' organizations. The DAV has one, the Paralyzed Veterans Association has a modification of it, the Gold Star Wives has one, and there are others.

Mr. HAGAN. Yes.

Mr. WILSON. It is a pressing issue with the Congress, as you know, so if there are any studies going to be made, we would hope that you would keep the chairman and the ranking member completely advised as to what is taking place.

Mr. HAGAN. At this time, sir, we have no thoughts about doing another study.

Mr. WILSON. Just one additional question, Mr. Chairman.

Mr. Solomon mentioned the proposed consolidation of regional offices, and he mentioned the letter of March 6 to Mr. Stockman. Could you submit a copy of that letter for the record?

Mr. HAGAN. Yes, sir, I will.[1]

Mr. WILSON. And any answer that Mr. Stockman might send back to the Administrator?

Mr. HAGAN. As far as I know, sir, there has been no response to that letter from Mr. Stockman.

Mr. WILSON. One final question, Mr. Chairman.

To your knowledge, Mr. Hagan, within the timeframe that has been suggested for that consolidation, are there any three offices, any three buildings, any three places anywhere in this country, where you could consolidate the entire paper processing of the Veterans' Administration's current 58 offices?

Mr. HAGAN. There are no vacant buildings available. If we had to consolidate, we would have to go to GSA and ask for buildings, three buildings, if it would be three offices that we consolidated into.

Mr. WILSON. Is it not true that you could not possibly do that within the timeframe suggested by the budget submission?

Mr. HAGAN. That's true. There is no way that we can do it, because it would——

Mr. WILSON. That being the case, should not the Veterans' Administration give consideration to the withdrawal of that proposal, thereby possibly forestalling the pending legislation?

Mr. HAGAN. I will discuss that with the Administrator and see what the administration wants to do.

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[1] See p. 61.

Mr. WILSON. It just seems, Mr. Chairman, that if the proposal is concerned with an impossibility, that it almost creates a moot point.

Thank you, Mr. Chairman.

Mr. APPLEGATE. I certainly think your point isn't moot. I think it's a very good one.

Thank you again, Mr. Hagan, for appearing before the committee, and to those who have attended with you.

Mr. HAGAN. Thank you, sir.

Mr. APPLEGATE. We didn't give them much of a workout, but it isn't always this easy.

Mr. APPLEGATE. We do have a large number of witnesses. As is our custom, I will call the witnesses in panels and ask them to limit their oral statements to 5 minutes. Without objection, their full statements will be entered into the record. After all the witnesses on each panel have completed their statements, the members of the committee will have an opportunity to ask any questions they may have.

The first at the table, of course, is Rick Heilman of the DAV, and we have Geraldine Chittick, chairman of the national legislative committee, Gold Star Wives of America, and Richard Johnson, director of legislative affairs, Non Commissioned Officers Association. Welcome to the committee. It's nice to see you this morning. We're looking forward to what it is you have to tell us.

Let's start with Mrs. Chittick.

STATEMENTS OF GERALDINE B. CHITTICK, CHAIRMAN, NATIONAL LEGISLATIVE COMMITTEE, GOLD STAR WIVES OF AMERICA, INC.; JOHN F. HEILMAN, NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS; AND RICHARD W. JOHNSON, JR., DIRECTOR OF LEGISLATIVE AFFAIRS, THE NON COMMISSIONED OFFICERS ASSOCIATION OF THE UNITED STATES OF AMERICA

Mrs. CHITTICK. Thank you.

Chairman Applegate and members of the subcommittee, thank you very much for the invitation to participate in this hearing. We in Gold Star Wives of America appreciate the opportunity to be heard so that we might bring to this committee the concerns of our membership as we observe the direction developing in the DIC Program.

I am very happy this morning to have several of our local Gold Star Wives members here attending the hearing with me.

We thank the committee for its continued foresightedness in efforts to protect the rights and benefits of veterans and survivors of our Nation's defense. The 4.1 percent increase in DIC rates would be greatly appreciated, especially by those in the lower pay grades. Should we be called upon to accept another DIC freeze, we will, of course, do so in the spirit of doing our part. This committee does have a piece of compensation legislation that is not included today for consideration, and that is H.R. 480, to permit remarriage after age 60 without loss of compensation. I would like for you to note our reference to this in the complete statement.

Our organization sees no justification for differing schedules of survivor payments, for certainly the supreme sacrifice is nothing less than 100-percent disability and no greater catastrophe can occur in that widow's life. There are compensating circumstances in all classifications of service widows. The adjustment to living on severely decreased income is shared by every widow at the time she becomes a widow.

We continue to stress the need for adjustment in rates paid to the lower rank survivors. In addition to the low rates, these same widows are adversely affected by lack of coverage in other benefits as well. What a family's economic status might have been had the serviceman returned from the military is always an unknown factor. We do know that during World War II many well-educated business and professional men died as E–1's to E–3's because they were patriotic enough to accept their country's call. To be penalized further because her husband was needed in combat before he had an opportunity to advance to his capabilities is extremely unjust. Members of Gold Star Wives went from civilian to war widow in 6 to 8 months, usually with young children to rear without benefit of their father's presence and security.

This past June I had the honor of representing Gold Star Wives at the D-Day activities in Normandy. My son, whose father never saw him, and my daughter-in-law accompanied me as we traveled with a group of 140 from my husband's infantry division. A surprising and unexpected aspect of my association with this group was that I was the only in-service widow on our bus. No wife was married to her husband during the war, so we really could not relate with each other regarding the war years.

It is interesting that in this morning's Washington Post several of our Gold Star Wives members are quoted and pictured. We are very proud of them.

Gold Star Wives continues to support the revision that we have recommended since 1977 as being a more fair and equitable basis for payment, namely, an equal base pay for all, with COLA's applied only to that base figure, plus a set amount based on rank and length of service, which would not change. This would assure every survivor the same dollar increase each time and the spread between top and bottom would remain constant.

We emphasize that this is not a return to the formula for payment from 1957 through 1969. That plan did provide equal base pay, but the add-on was subject to an increase every time the military pay was increased, and sometimes as often as every 6 months. That program created a wide spread between top and bottom, just as the current one has done. Under the current formula, with the approximately 185-percent increases which have occurred in the past 15 years, the differential between top and bottom has increased from $259 when it went into effect, to $741 now. To continue to further increase this spread between top and bottom is unconscionable.

Thank you for your consideration of some of these major concerns of those directly affected by the DIC Program. I will be pleased to answer any questions you might direct to me. Thank you.

[The statement of Geraldine Chittick appears at p. 63.]

Mr. APPLEGATE. Thank you very much for your statement.

Next we will listen to Rick Heilman, representing the Disabled American Veterans.

STATEMENT OF JOHN F. HEILMAN

Mr. HEILMAN. Good morning, Mr. Chairman. I will summarize my statement.

With respect to the issue of a compensation increase, of course, we have two bills, H.R. 1538, and the administration's draft bill. As was noted, both propose a 4.1 percent adjustment effective December 1 of this year. We are supportive of this increase, Mr. Chairman.

I do want to say that we do not favor the rounding down in the computations, as is contained in the administration's bill. We prefer the longstanding practice of this committee and the Congress which is to round down or up, as appropriate, to the nearest whole dollar. As indicated this morning, the amounts we're talking about are very minuscule. As it affects an individual, it's only a dollar. We don't believe that the pocket change of disabled veterans should be used in this fashion.

I also want to thank you, Mr. Chairman, for bringing attention to the fact that the (k) award is absent in both bills. As you indicated, this award was last increased in 1979 and it is provided to veterans who have incurred the loss or loss of use of certain extremities or body organs and functions. As indicated in my statement, we do support an adjustment in the (k) award.

With respect to the other provisions in the VA's draft bill, the effective date change with regard to school attendees, the change in definition for active duty for training for National Guard personnel, the change relative to the criteria for foreign adoptions, and the authority to continue to provide appropriations for a regional office in the Philippines, we have no position on any of these issues. However, we do note the very pertinent comments that counsel made regarding several of these provisions and we think its appropriate that the subcommittee give them consideration.

Lastly, there is one provision in the VA bill which would add lung conditions to section 360, which currently embodies the concept of paired organ involvement and functional loss. We do support adding lung condition to 360. We commend the VA for this initiative. And as indicated in my testimony—and for the record, I want to express our appreciation for the comments of Mr. Evans earlier—we do believe that paired extremities should be added to section 360; that is, if a man or woman, service-connected for the loss or loss of use of one extremity, suffers a nonservice-connected loss of the second paired extremity, we believe the provisions of section 360 should apply.

As was noted by Mr. Evans, the current statute deals with blindness, deafness and kidney function, and we can see no reason why the logic, the basic premise of this statute, should not apply both to lungs and paired extremities. In line with our recommendation, if this should be acted upon favorably, we would also recommend the simultaneous repeal of the (t) award, which now deals with paired extremity losses, we contend in an inadequate fashion. We recom-

mend that the (t) award be repealed if paired extremities added to section 360.

With regard to H.R. 1537, providing an appropriate DIC rate for the Commandant of the Coast Guard, and the measure dealing with SGLI and VGLI insurance programs and increasing those amounts, we have no position on either one of those.

Mr. Leath's bill, H.R. 1568, we do support. We fully understand the reason and necessity that Mr. Leath has seen for introducing this legislation. Consolidation was proposed by OMB through the VA 4 years ago, was rejected by the Congress, and now it's proposed again. I don't want to go into detail as to why consolidation can't work and wouldn't work should it be attempted.

I think we agree with this committee, Mr. Chairman, that the compliances of section 210(b)(2) have not been met insofar as the planning and justifications that are required under current law. If it takes something like 1568 to keep OMB from administratively starting the benefit system into a downhill slide to oblivion, then we say the Congress should do it. Hopefully, as indicated earlier, perhaps it won't be necessary. But if it is, we certainly support it.

Lastly, Mr. Chairman, on H.R. 85, we appreciate the fact that this has been placed on the agenda. It was introduced in the Congress at our request. It does propose a change in the current rank-based formula that applies to DIC payments.

Let me just state, No. one, unlike the earlier suggestion of Mr. Hagan, we do not regard this as a recruitment or retention device for the military. Frankly, I don't see how it could be viewed as such. I would hate to try and convince anyone that this was an inducement for going into the military. It simply expresses our belief that the current formula is not adequate, especially with respect to post service-connected deaths. We don't believe there is any logic or justification for linking of DIC payments to a rank that a man or woman may have held 20, 30 or 40 years ago. It has no relevance whatsoever to their standard of living and to the impact that the service-connected disability had on the veteran during his lifetime. We believe that for post-service deaths it does make sense to link DIC payments to the percentage of service-connected disability at time of death.

We realize this is a very complex issue, as has been noted, and is a very emotional one. We understand that there are other options that other organizations and interested parties have. We are certainly willing to consider all of these and we urge the committee, in fact, to consider not only ours but all of the views that are presented today. If you come away with nothing more than the realization that there is a strong desire on the part of the veterans community to seek a reform in the DIC Program, I would say that today's hearing was well worth it.

That concludes my remarks, Mr. Chairman.

[The statement of John F. Heilman appears at p. 64.]

Mr. APPLEGATE. Thank you very much, Mr. Heilman.

Mr. Johnson.

STATEMENT OF RICHARD W. JOHNSON

Mr. JOHNSON. Thank you, Mr. Chairman. I, too, will summarize my statement.

I would like to touch briefly on each of the five bills under consideration by the committee this morning. Three of them deal with the DIC Program and compensation programs.

The first, H.R. 1538, proposes a 4.1 percent increase in compensaton and DIC payments, which would equate to the anticipated increase in cost-of-living for the future year. Notwithstanding the comments made by the Veterans' Administration representative this morning and by so many members on the Hill, we do not believe that it should be a matter of policy to limit cost-of-limit increases in compensation programs simply because they are handy as cost-saving measures to the Federal Government. If it is necessary to cap cost-of-living increases in some programs, we urge the committee to look at each program separately and decide on the merits of each individual program, whether there should be a cap placed on that program.

With regard to H.R. 1537, NCOA supports the legislation to provide the surviving spouse of the Commandant of the Coast Guard a rate of dependency and indemnity compensation which is equitable with compensation rates paid to other individuals who have served as the chief of their service. Having stated that, however, NCOA does continue to believe that the current DIC Program does not adequately recognize the needs of survivors or the service of veterans.

With regard to H.R. 85, we're concerned that the proposal creates as many inequities as it seeks to correct. For example, the widows of active duty enlisted personnel would almost always receive compensation at a rate less than that which a widow of a 100 percent disabled veteran would receive. At the same time, an officer's widow would lose substantially if her husband died years after leaving service.

There is the possibility of many, many other inversions in this program which I have discussed in my prepared statement, which I commend to the committee's attention. It is a very laudible attempt and I commend its authors and sponsors. We have talked with them about this before. But it does not really address the equity issue that NCOA has been concerned with in the DIC Program for several years. The cost of H.R. 85 would be about $20 million a month. For $20 million a month we could raise payments to 220,000 of the 260,000 widows under the DIC Program to $650 a month and pay a flat rate. If we added to that, if we went to $30 million a month, we could pay everybody in the DIC Program $700 a month, a flat rate, a sustenance income, something that is fair compensation for the loss that has been suffered.

NCOA continues to support an equal benefit program for DIC beneficiaries, and we hope the committee will continue to look at that as an alternative. We associate ourselves with the remarks of Mr. Heilman with regard to the committee's action this morning, that if the committee comes away with nothing other than a realization that there is a need to change the programs, this will have been a successful meeting.

With regard to H.R. 1709 on SGLI, I will not belabor the point. We know the committee has passed legislation last year and we are hopeful the committee will pass this legislation again this year. We are even more hopeful that the Senate will agree to it this time.

Finally, with regard to the last bill under consideration, H.R. 1568, which would prevent the Veterans' Administration from consolidating regional offices, this is a bill we strongly support. As a matter of fact, we recommended such legislation in our statement before the full committee on the budget this year and are deeply grateful that a member of the committee has introduced such a proposal.

We do believe the legislation is necessary at this time, if for no other reason than to prevent all the money and time that is being wasted on planning for something which will likely never occur.

That concludes my remarks, Mr. Chairman. I thank you.

[The statement of Richard W. Johnson appears at p. 70.]

Mr. APPLEGATE. Thank you very much, Mr. Johnson.

I think it is somewhat obvious that we need to give a great deal more consideration and thought to the DIC Program and revision. There are a large number of inequities that have been identified within the current system, and in H.R. 85, I guess we have more work to do on it so that we really don't end up creating a lot more problems than what we already have. So I think there will be a great deal more consideration given to revision of DIC.

I wanted to ask a question to Rick on the loss of extremities. Can you tell me how many would there be identified in this program if it was in effect now?

Mr. HEILMAN. Yes, sir. Let me give you a little bit of background. As you are aware, Mr. Applegate, it was in 1978 that this committee and its counterpart in the Senate addressed this issue and, in fact, based upon the recommendations of the House Veterans' Affairs Committee, the full House did pass a bill, H.R. 6501, that would have put paired extremities into section 360. The administration opposed it at that time. The Senate came up with an alternate approach which eventually became the (t) award that was put in the statute books in 1978.

Currently, there are either 64 or 65—I have received two numbers from the VA—64 or 65 veterans who presently draw (t) award benefits. That means they have incurred the service-connected loss or loss of use of one extremity and the subsequent nonservice-connected loss of the second. So we are dealing with a handful of veterans and the liberalization that we suggest would be monetarily insignificant, far less than $1 million a year. Again, we feel our proposal is equitable.

Mr. APPLEGATE. Are you counting lungs in that, too, in that 64 or 65, or are you just talking about the extremities, arms and legs?

Mr. HEILMAN. No, sir. There is currently 64 or 65 recipients of the (t) award, only the paired extremity group. I don't know what the estimate is as far as the lungs.

Mr. APPLEGATE. The only other comment that I would have would be on consolidation, and I agree with what has been stated. I think it's a bad proposal in the first place. I don't think it can be implemented within the time period, and I think it has really not

been handled too well. I hope that we will be able to see the end of that proposal and retain the system as we see it today.

We have with us Mr. Molinari of New York, who has joined us. Mr. Molinari.

Mr. MOLINARI. Thank you, Mr. Chairman.

I just have but one question of Mrs. Chittick. On page 2 of your testimony, you talked about the proposal that your organization has advanced since 1977, talking about the COLA treatment. Do you have any cost estimate as to what that would amount to were we to adopt your proposal?

Mrs. CHITTICK. No, sir.

Mr. MOLINARI. Have you taken this up with the VA at any time and asked them——

Mrs. CHITTICK. No.

Mr. MOLINARI. You haven't?

Mrs. CHITTICK. No, not to have it cost out.

Mr. MOLINARI. I think it's something that we might want to pursue. I would like to at least get a figure on it and see what the cost would be.

Thank you. I have no further questions.

Mr. APPLEGATE. Thank you, Mr. Molinari.

I thank each of the panel members for appearing today.

Mr. JOHNSON. Thank you, Mr. Chairman.

Mr. APPLEGATE. Next we have Bob Moran of the PVA, Col. David Passamaneck of AMVETS, and Comdr. John Wanamaker of the Retired Officers Association.

Good morning, gentlemen, and welcome to the committee. This is old hat to you guys. It's always good to have you here.

Bob, you were the first at the table, so we will begin with you.

STATEMENTS OF BOB MORAN, ASSOCIATE LEGISLATIVE DIRECTOR, PARALYZED VETERANS OF AMERICA; DAVID J. PASSAMANECK, LT. COL. USA (RETIRED), NATIONAL LEGISLATIVE DIRECTOR, AMVETS; AND JOHN F. WANAMAKER, COMMANDER, USN (RETIRED) DEPUTY DIRECTOR, LEGISLATIVE AFFAIRS, RETIRED OFFICERS ASSOCIATION

Mr. MORAN. Thank you, and I will summarize from my written testimony.

It is a privilege for me to appear here today and present the views and concerns of Paralyzed Veterans of America. I am Bob Moran, associate legislative director.

Initially I want to extend PVA's appreciation to you, Mr. Chairman, and members of the subcommittee, for your ongoing efforts to improve the effectiveness of these most important programs that directly affect our members.

PVA is very pleased to support H.R. 1538, a bill which provides for a 4.1-percent increase in the rates of compensation for veterans with service-connected disabilities and in the rates of DIC for their survivors.

PVA has always supported a viable compensation program to care for the service-connected disabled veterans and to provide for the loss of earning capacity when the diminished capacity results from injury or illness incurred while in service to the Nation.

Compensation is for many of PVA's members extremely important, because for many catastrophically disabled veterans, it remains their primary source of income. Therefore, service-connected disability compensation and DIC should be adjusted each year to offset erosion caused by inflation.

In regards to the DIC program which cares for the service-connected disabled veterans' survivors, we remain discontented by the awarding of DIC benefits based on military pay grade rather than on the veteran's degree of disability. PVA has addressed this inequity in the DIC program for years. Under existing law, the survivor receives DIC benefits based on the veteran's military pay grade and not on his degree of disability.

PVA understands the rationale for awarding benefits based on military pay grade when a serviceman dies while in active duty service. However, when service-connected disabled veterans die from service-connected causes years after termination of their military service, we believe, and have testified on numerous occasions, that there is little or no correlation for using military pay grade as the basis for computing the DIC benefit for a surviving spouse.

Most veterans, especially those who served in wartime, were not careerists but were citizen soldiers who simply answered their nation's call to duty. Consequently, the majority served in the lower military pay grades, where debilitating injuries were most prevalent. Basing DIC on military pay grade, not on the degree of disability, therefore leaves many surviving spouses with inadequate benefits after the death of the veteran. This happens despite the service rendered to the Nation, both by the veteran and by the surviving spouse who had assisted the veteran in living a meaningful life, free from costly institutions.

PVA agrees with the concept for the need to restructure the DIC Program. However, it is PVA's belief that this legislation does not go far enough in adequately providing for those spouses of catastrophically disabled veterans.

PVA proposes that the formula for computing surviving spouses DIC rates be established at 75 percent of the deceased veteran's monthly compensation benefit.

Lastly, Mr. Chairman, in reference to H.R. 1568, legislation which mandates that each State have a VA regional office. Presently each State has at least one VA regional office, with several States having multiple facilities. This pattern of placement of VA regional offices has evolved on the basis of need to service the existing veteran population. VA regional offices should be dictated by veteran demographics and this approach in establishing VA regional offices should be the primary factor in determining their geographic location.

Based upon this premise of needs placement, PVA would view legislation that would mandate each State have its own VA regional office as unnecessary and restrictive. But, if legislation is necessary to protect the integrity of the VA regional office structure from future administration consolidation efforts, then PVA would support the concept of such legislation as H.R. 1568 introduced by Representative Leath.

This concludes my statement, and I thank you.

[The statement of Bob Moran appears at p. 72.]

Mr. APPLEGATE. Thank you, Bob.
Commander Wanamaker.

STATEMENT OF JOHN F. WANAMAKER

Commander WANAMAKER. Thank you, Mr. Chairman.

The committee has before it several bills relating to veterans disability compensation and survivors dependency and indemnity compensation, or DIC. I would like to comment on the process of making adjustments to these programs.

As recently as this morning, considerable discussion has taken place, over the adjustment to these programs—and it continues within this House today—by reducing budget outlays across the board to all entitlement programs, and in the other body there appears to be a leadership agreement to limit the entitlement programs to a CPI minus 2 for the next 3 years, it would appear that decisions on the level of compensation for veterans and their survivors are being arbitrarily decided outside the oversight of this committee and without regard to the basic principles upon which these programs are established.

The last cost-of-living adjustment to these programs were effective on December 1, 1984. This committee must resist efforts to cause an extended delay in the next adjustment.

Inflation experienced since the last adjustment is running at an annual rate of approximately 4 percent. Assuming that a 4 percent inflation rate continues, disabled veterans and their survivors would experience a loss of 7.3 percent in purchasing power in the VA compensation programs during that period. It is for this reason that members of our association strongly recommend that an interim adjustment be made during fiscal year 1986.

H.R. 1538 would provide a 4.1 percent increase in the rates of disability compensation and DIC effective December 1, 1985, and we support this bill.

H.R. 480 would provide that remarriage of the surviving spouse of a veteran after age 60 should not result in termination of DIC benefits. I urge the subcommittee to favorably consider amending H.R. 1538 to include the provisions of H.R. 480.

The bill, H.R. 1492, would permit veterans who are eligible for military retired pay to receive compensation from the Veterans' Administration for a service-connected disability concurrent with the military retired pay when such pay is based on length of service. We recommend that the provisions of H.R. 1492 also be favorably considered as an amendment to H.R. 1538.

H.R. 85 would revise the formula for the payment of dependency and indemnity compensation to certain survivors whose spouses died after leaving service. The current schedule for DIC replaces income in the range of over 50 percent for the survivors of junior enlisted men to less than 20 percent for the survivors of middle grade enlisted men and officers. It is in this middle grade range in rank that serious deficiencies currently exist in the DIC program. H.R. 85 does not address this problem. The provisions of H.R. 85 completely lose sight of the purpose of the DIC Program and, therefore, we oppose this measure.

At the same time, we ask that there be a study conducted to compare the veterans' Dependency and Indemnity Compensation Program with that of ERISA requirements for pre-retirement replacement income for survivors in the private sector. Also, that study should compare income replacement levels provided civilian Federal employees to their survivors. I am certain that such a comparison study would point out shortfalls in the current DIC Program.

H.R. 1537 would provide that DIC be payable to a surviving spouse of the Commandant of the Coast Guard who dies of a service-connected disability at the same rate as that provided the surviving spouses of members of the other Joint Chiefs of Staff. We urge the committee to favorably consider this measure.

H.R. 1790 would authorize an increase in the coverage provided by the Servicemen's Group Life Insurance from the current maximum level of $35,000 to the proposed maximum of $50,000. We strongly support this provision.

H.R. 1790 also proposes to change the Veterans Group Life Insurance Program from a limited 5-year term insurance program to a renewable 5-year term program for certain Individual Ready Reservists and for members of the Inactive National Guard. We recommend that this coverage be extended to these reserve groups and that it be incorporated within the framework of the SGLI Program rather than a change in the VGLI Program.

H.R. 184 would provide the premiums of those aged 70 and over participating in the NSLI Program be waived. Currently, the interest alone on the assets of the NSLI fund exceed the annual payment in claims. At this rate, I believe the fund would continue to grow and in the near term would be sufficient to amortize the remaining insurance in force over the long term, even if all premiums were stopped tomorrow. I believe that consideration should be made to go beyond the provision of H.R. 184 and apply a waiver of all future payments.

Finally, there is a bill before this committee, H.R. 1918, that would provide annuities to veterans of World War I and their survivors. I think it's about time, Mr. Chairman, that some consideration be finally paid to this small group of remaining veterans of World War I, whose current age exceeds 89 years.

I would like to make one final comment. Among the various proposals within the administration is one by the Treasury Department, under the heading of "tax simplification", calling for taxation of veterans' benefits. I know tax measures are not within the oversight of this committee, but I would hope that this committee insist that veterans' benefits continue to be excluded from consideration of taxation.

Thank you, Mr. Chairman.

[The prepared statement of Commander Wanamaker appears on p. 75.]

Mr. APPLEGATE. Thank you, Commander Wanamaker. You can be assured that my voice will be going up in strong opposition to any proposal to tax veterans' benefits.

Colonel Passamaneck.

STATEMENT OF DAVID J. PASSAMANECK

Colonel PASSAMANECK. Thank you, Mr. Chairman.

AMVETS is pleased to be afforded the opportunity to present our views regarding cost-of-living and other adjustments affecting the Veterans' Administration compensation and insurance programs.

The President's proposal to increase compensation and DIC by 4.1 percent is a welcome recognition of the special place deservedly occupied by veterans and their dependants in the order of priorities for governmental funding, even during a time of fiscal restraint. We enthusiastically support the administration's draft bill to accomplish this increase as well as the enactment of several useful administrative improvements to the compensation system and to the qualifying criteria for veterans entitlements under title 38 of the United States Code.

We specifically endorse amendment of section 101(22) relating to the definition of "active duty for training" in order to permit the full-time operational duty performed by National Guard members to be considered active duty for title 38 purposes; amendment of section 101(4)(b) relating to foreign adoptions; amendment of section 360 of title 38 to extend the principle of paired organ impairment to certain lung disabilities to allow a total disability rating where the service-connected rating for one lung is 50 percent or more; and extension of the Administrator's authority to operate a regional office in the Philippines. In this connection, we also support enactment of H.R. 1568, requiring the maintenance of a regional office in each State.

The recent, so-called compromise reached between the President and the majority leadership in the Senate, which would cut in half, if not eliminate, a cost-of-living increase for compensation and DIC recipients, as well as other suggestions for across-the-board freezing of veterans entitlements along with other nonveteran programs, are completely unacceptable. As the general population did not share the risks or make the sacrifices of veterans and their families, there should not be an equal sharing of cuts in veteran and nonveteran programs.

AMVETS appreciates Chairman Montgomery's and Mr. Hammerschmidt's introduction of H.R. 85 to reform DIC. Although the bill eliminates rank as a determinant of widows' compensation, the formula which replaces rank leaves much to be desired, not the least of which is its apparent failure to recognize that a disability which causes death should properly be rated at 100 percent in all cases. We therefore suggest that an equal, across-the-board payment might be more equitable and realistic than any variable formula. In any event, more study will be needed before we can improve the current system.

We do, of course, support the payment of DIC to the surviving spouse of the Commandant of the Coast Guard at the Joint Chiefs' rate.

Chairman Montgomery's draft bill to increase the maximum amount of Servicemen's and Veterans' Group Life Insurance and extend coverage to the Reserve and National Guard is long overdue and should be enacted. It is a timely reflection of the cost-of-living increases since the $35,000 maximum was established.

As we have for many years, we urge again the enactment of long overdue legislation such as H.R. 1366 or H.R. 1492 to allow persons receiving military retired pay—other than disability retired pay—to receive concurrently pension or compensation. There is no reason why military retirees should be less entitled to VA compensation or pension than other veterans.

This concludes my testimony, Mr. Chairman. I will respond to questions, if any.

[The prepared statement of Colonel Passamaneck appears on p. 77.]

Mr. APPLEGATE. Thank you, Colonel, and we thank each of you for appearing before the committee.

I will now recognize the gentleman from New York, Mr. Molinari.

Mr. MOLINARI. Again, I have just one question, and that would be to PVA. As to your proposal on DIC, do you have any idea what the cost estimates of that proposal would be?

Mr. MORAN. No, we do not.

Mr. MOLINARI. I was just talking here about the possibility of—I'm new on the committee, so I may not be as astute as the rest of the members—but I was just asking about a veteran who might have had a 30 percent or, let's say, a 60 percent disability for a heart condition, and then dies as a result of a heart attack. I'm wondering, would you pay his widow 75 percent of his compensation rate, or would you pay the widow the DIC based on today's formula? Or would you consider that all such veterans should be considered as 100 percent disability at the time of actual death.

Mr. MORAN. That's a good point. In our written statement we do further state, under that type of system, to use a two phase program, that those individuals would have to be grandfathered if it would be a reduction of their benefits. To that answer, we would want to see the greater benefit paid.

Mr. MOLINARI. Thank you, Mr. Chairman. I have no further questions.

Mr. APPLEGATE. Thank you, Mr. Molinari.

Again, thank you very much for appearing before the committee, gentlemen.

Commander WANAMAKER. Thank you, sir.

Mr. APPLEGATE. Our next panel will consist of Mr. Dennis Rhoades, executive director of the Vietnam Veterans of America; Mr. Donald Schwab, director, national legislative service, Veterans of Foreign Wars; and Mrs. Jean Arthurs, legislative director, National Association of Military Widows.

I welcome you all to the committee this morning, and we are looking forward to your testimony. We will begin with Mrs. Arthurs.

STATEMENTS OF JEAN ARTHURS, LEGISLATIVE DIRECTOR, NATIONAL ASSOCIATION OF MILITARY WIDOWS; DONALD H. SCHWAB, DIRECTOR, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES; AND DENNIS K. RHOADES, EXECUTIVE DIRECTOR, VIETNAM VETERANS OF AMERICA

STATEMENT OF JEAN ARTHURS

Mrs. ARTHURS. Thank you, Mr. Chairman, and distinguished members of the committee. I am Jean Arthurs, president of the National Association of Military Widows, and we thank you for allowing me to provide testimony here today. The members of this committee are to be commended for their continued concern for the individuals affected by this commiittee's decisions. I will synopsize my testimony in the interest of time.

Our association is an all-volunteer organization, and our membership represents all ranks of career and noncareer service widows of the seven uniformed services, Regular and Reserve. Our broad base has made us realize the need for equitable legislation for these fine women who have helped serve our country so well.

We support H.R. 1538, to provide a 4.1 percent cost-of-living increase. According to the VA study of 1978, the average military widow receiving DIC benefits is over 60 years of age and, for many, this is their only form of support.

H.R. 1537, to provide for the payment of DIC to the surviving spouse of a Commandant of the Coast Guard as provided to the other surviving spouses of the Joint Chiefs of Staff, we are in favor. Achieving equitable compensation for all Federal widows that is fair and just to all is our endeavor.

To require the Veterans' Administration to maintain a regional office in each State seems a necessity when consideration is given to the myriad of problems of administration which is one of the VA's most important missions.

H.R. 85 revises the formula for the computation of the dependency and indemnity compensation. First of all, we wish to commend the Disabled American Veterans for their effort in taking the first step, long overdue, to correct the inequities of DIC compensation.

Our primary concern in the formula for the death on active duty is why the group of widows whose sponsor served less than 4 years is not included in this table of increases. As widows who have survived the trauma of our sponsors' deaths on active duty, we can tell you, it is a violent way to lose your loved one. It is unfair and unjust to discriminate among this category of widows, and all of the death on active duty widows should be included in this formula.

Also, if the Federal commitment is to be fair and equitable, consideration should be given to equalizing the military, civil service, and foreign Service widow compensation when a comparable active duty death is involved. Comparable worth is of the essence today, and a worthy area to study it is the Federal Government widows compensation Programs. A substantial difference in death benefits exists at every pay level between the DIC and FECA Programs. Why does the DIC widow receive less compensation than the Foreign Service widow when the deaths are comparable? The military

are paid and administered by the Department of Defense, a Federal agency; therefore, they are all Federal employees in every sense of the Federal definition. Federal agencies—civil service, Foreign Service, and the military—all share the same paymaster, the U.S. Treasury.

In H.R. 85, the formula for the post-service death due to service-connected causes presents complex problems from the viewpoint of the widows. It is well know that the cost of continuous attendant care by the widow can greatly exceed the maximum aid and attendance allowance for service-connected disabilities. In some cases, our widows are left in large debt and physically and emotionally shattered.

However, the National Association of Military Widows is very grateful for this first step in progress to correct the inequities of DIC legislation.

We question why Representative Whitehurst's and Representative Roe's bills—H.R. 183 and H.R. 480—are not included on today's agenda of this hearing. These bills would allow the DIC widow to remarry after age 60 and retain the DIC compensation. Again, it is a matter of treating Federal widows equitably. Social Security, The RSFPP, the military SBP, and the FECA Programs allow the annuitant to retain the compensation or pension annuities when she remarries after age 60. So few have the opportunity to remarry after age 60 that the cost cannot be a contributing factor.

Conversely, the SBP, which may include the DIC compensation as an offset, upon remarriage of the annuitant after age 60, the SBP is restored to the full 55 percent of the loss of compensation. Unfortunately, military SBP was not passed until 1972, which precludes the coverage for many DIC widows. The cost of maintaining livelihood continues to increase in this day. It is a lonely life for elderly widows. If they can find a measure of happiness and security through remarriage after 60, we feel they are entitled to do so and retain the annuity.

At this time we wish to refer to the terminology used in defining the surviving spouse under the DIC regulations of Title 38, Chapter 13, United States Code. Also in the VA booklet, Federal Benefits for Veterans and Dependents, and also in the VA flier included periodically with the DIC check, the following regulations are outlined:

> A surviving spouse may also be ineligible if, after the death of the veteran, she or he has lived with another man or woman and held herself or himself out openly to the public to be the spouse.

In the flier enclosed with the DIC checks it states:

> You must notify us immediately if you remarry or commence a relationship in which you hold yourself to be the spouse of another. Even if you do not remarry legally, or choose to marry under common law, we are required to review your continuing entitlement.

The recipients of these regulations have spent their lives supporting the servicemen by maintaining the family unit and contributing in every way possible to the success of his career and his service. These are women who are held in high esteem in their communities. They are extremely patriotic and they possess high

moral virtues. This is not an overnight revelation as it has caused concern and humiliation for years.

To quote a few of the ladies, they say, "Not only are DIC widows the only group of widows not permitted to remarry after age 60 without losing their entitlement and benefits, but the Veterans' Administration tries to control their lives."

Another response. "Why are only DIC widows singled out?" Another: "This is a paradox, a veteran can claim a woman as a spouse if she has a child born of or before a marriage, but a widow is castigated before the fact." Another: "I was a devoted Army wife and mother. Such a way to dishonor my husband's service to this country. He gave his life for this? Such an indignity."

The State of Virginia, in a recent ruling by the U.S. District Court, has stated that the laws on heterosexual acts between unmarried adults and cohabitation are too broad and should not be enforced. Judge Merhige, ruled that "As laudable as these State goals are, they do not justify an absolute prohibition of the exercise of a constitutionally protected activity. The court cannot accept the contention that sexual abstention, forced through criminal sanctions, will encourage or regulate marriage."

In the main, I can assure you that the majority of DIC widows encourage and promote traditional marital and family relationships and moral values. Our association would greatly appreciate consideration given to the rethinking and restructuring of this regulation.

I thank you again for allowing me to testify today on behalf of the military widows. We do appreciate your continuing interest in securing appropriate and equitable legislation on our behalf. Thank you.

[The statement of Jean Arthurs appears at p. 78.]

Mr. APPLEGATE. Thank you, Mrs. Arthurs.

Next we'll hear from Don Schwab.

STATEMENT OF DONALD H. SCHWAB

Mr. SCHWAB. Thank you, Mr. Chairman. It is a privilege to be here before this subcommittee, and with the understanding that my testimony will be printed in full in the record, I will summarize my testimony.

Mr. Chairman, the VFW supports the provisions of H.R. 1538, which would grant a 4.1-percent increase across the board in compensation and DIC. Having said this, Mr. Chairman, should the Congress seriously consider the callous proposal of the Department of the Treasury to tax compensation payments, the VFW would urge that the compensation increase be as large as is necessary to offset the taxation of this keystone of all veterans' benefits.

The VFW also, of course, supports the administration's draft bill which would also grant a 4.1-percent increase, and the miscellaneous provisions in the administration's draft bill.

Mr. Chairman, regardless of the honorable intent of H.R. 85, in the opinion of the VFW, the inequities in the present DIC law are merely exacerbated by the provisions of H.R. 85. As an example, the bill would authorize DIC to the widow of a private citizen soldier, whose life is snuffed out in combat, of $496 a month. Howev-

er, should this man be permanently and totally disabled and expire one day after being released from active duty, or years later, his widow would be entitled to $675 a month. In the case of a citizen soldier officer at the O–6 level with less than 4 years service, were he killed on active duty, his widow would receive $909, but if he was unfortunate enough to expire from service-connected disabilities the day after service, or years later, his widow would be reduced to $675 a month.

So as incredulous as it may sound, anyone killed in action or suffering from a service-connected disability, is totally disabled at the instance of death, if in the latter case that disability was the cause of death.

Mr. Chairman, H.R. 1537, introduced by you, would provide equal payment to the widow of the Commandant of the Coast Guard at the same rate as his contemporaries. The VFW supports that bill.

H.R. 1568, introduced by Mr. Leath, would require the Veterans' Administration to maintain a regional office, fully capable of adjudicating and processing claims in each State. Mr. Chairman, this is the second time that the administration has made a proposal to consolidate into first one, and then three, benefit processing support activities, the adjudication of veterans' claims and the maintenance of claims filed. The VFW opposes this consolidation in the strongest possible terms, since the claimant's access to a full and fair hearing would be greatly restricted, representing a serious infringement on the veteran's right to due process. It is essential that this legislation be expeditiously advanced and it is supported by the VFW.

Mr. Chairman, H.R. 1709, introduced by the chairman of the full committee, would increase the maximum Servicemen's Group Life Insurance and Veterans' Group Life Insurance, and extend eligibility for VGLI to members of the Individual Ready Reserve and Inactive National Guard, which the VFW supports.

In addition to the foregoing, Mr. Chairman, there are bills pending before this committee which the VFW supports—H.R. 183, introduced by Mr. Whitehurst, to provide that the surviving spouse of a veteran continue to draw DIC if she remarries after age 60; H.R. 185, introduced by Mr. Roe, which would provide mortgage protection life insurance for disabled veteran who are unable to obtain life insurance; H.R. 867, introduced by Mr. Bilirakis, which would permit the concurrent receipt of armed forces retired pay for longevity and compensation payable by the Veterans' Administration.

In conclusion, Mr. Chairman, the VFW appreciates the continuing concern of this subcommittee and the full committee for our Nation's veterans, their dependents and survivors. I thank you.

[The statement of Donald H. Schwab appears at p. 81.]

Mr. APPLEGATE. Thank you, Mr. Schwab.

Mr. Rhoades.

STATEMENT OF DENNIS K. RHOADES

Mr. RHOADES. Thank you, Mr. Chairman. VVA appreciates the opportunity to be here today to comment on a number of pieces of legislation under consideration by the committee.

We realize this is a very difficult year in veterans' affairs, as it is in most domestic programs, and there is a lot of discussion about the need for fiscal restraint. But we believe that fiscal considerations should be kept in balance with the legitimate needs of the veterans that we all serve.

We are very pleased, therefore, that the President has overruled OMB's earlier proposal to freeze COLA's for the compensation and pension program. If you will remember, this was an initial proposal that OMB came up with late last year.

We would only accede to a freeze for the COLA's in this program if all other income transfer programs paid by the Federal Government were so frozen, and that does not appear to be a political reality by anybody's definition.

We are pleased to see that the committee is considering H.R. 85, which would make some changes in the DIC program. We think that to determine what a surviving spouse of a man or a woman who has been a civilian for 20 or 30 years will be paid based upon military rank is ludicrous. We are glad to see that the program for post-service veterans is being adjusted to correspond with the degree of service-connected disability.

I think it also speaks to the fact that, with H.R. 85, we see we really have two systems here. We have a system for what might be termed the regular veteran, the person who went in and did 3 or 4 years, got out, went through his life with a service-connected disability, and then died; we have another system which deals with men or women that die on active duty, basically career-military people.

It is probably beyond the purview of this committee, but it seems to me the military needs to take care of its own, and that if a soldier dies in the military, that the responsibility for paying DIC should be charged against the DOD rather than the VA budget. But again, may be beyond the purview of the committee.

We have one concern about H.R. 85, and that is, that we believe the families of the catastrophically disabled veteran are probably going to suffer through the DIC payments more than other veterans. We would suggest the committee may want to take a look at additional payments to statutorily disabled veterans, similar to what you find in title 38 at 314, specifically in paragraphs (l) through (r).

We support, with reservations, Mr. Leath's bill, H.R. 1568. I say with reservations because I think it's a shame that this kind of legislation has to be proposed to block an administrative procedure which appears to make no sense at all. The basis for the consolidation of the regional office system is an ADP system which doesn't exist. As Mr. Walters has said, this puts the cart before the horse. The VA already consolidates some of its activities. It currently consolidates insurance and that sort of thing. We agree with what all the other service organizations have said here, though. The basic adjudication process for benefits I don't think can be easily consoli-

dated and still maintain due process in the system. The idea of having three rating boards traveling around the country is going to cause long delays in adjudicating claims. It is also, to our mind, simply a denial of due process which I think is a particularly critical problem in a system that is not subject to judicial review.

Therefore, we do favor passage of H.R. 1568, if it appears as if the administration is going to go ahead with its ill-conceived plan. Our only reservation is that it provides for one regional office in each State. There are several States, as has been pointed out before, that have more than one regional office. I would hate to see, being a native Californian, the three regional offices in California consolidated into one regional office. I think it would be a bureaucratic nightmare. I think you may want to take a look at the legislation to allow the VA to maintain the system of regional offices that it has, particularly in the larger States.

That concludes my statement, Mr. Chairman.

[The statement of Dennis Rhoades appears at p. 84.]

Mr. APPLEGATE. Thank you very much, Mr. Rhoades.

Mr. Molinari.

Mr. MOLINARI. I just have one question of Mr. Rhoades, Mr. Chairman.

As to your proposal to transfer the payments on DIC on in-service deaths to the Department of Defense, is it your suggestion that this be prospective in nature only or would it also be applicable to those benefits that are being paid out today?

Mr. RHOADES. Well, I would say it would be prospective in nature only. I don't think you can change a system that people rely on and not end up penalizing some people. I don't know if we're necessarily coming up with a hard proposal here. What I'm saying is you need to look at it. Our concern is basically that the Veterans' Administration funding and its programs are basically viewed by OMB, and I think by most everybody else in town, as a domestic program. The political reality is, it is much harder to maintain or get additional funding for domestic programs than it is for defense programs, and it seems to me there's a certain logic in having the military take care of its own and making DIC a responsibility of the military, which doesn't currently seem to have as many problem in getting money as the domestic agencies.

Mr. MOLINARI. My own perception is we're starting to see a shift in the emphasis, and there seems to be a greater demand for accountability with DOD today than ever before. Does that not concern you?

Mr. RHOADES. I think the key issue is fairness. I would associate myself with the remarks about the fairness of the system as proposed in H.R. 85, as articulated by the VFW. I am simply suggesting we may want to take a look at what pocket the money is coming out of rather than advocating a change in the system.

Mr. MOLINARI. Thank you. I have no further questions, Mr. Chairman.

Mr. APPLEGATE. Thank you, Mr. Molinari.

Thanks again to the panel for testifying before the subcommittee this morning. We appreciate it. Again, I express my thanks to all of those who did submit or appear before the committee with their testimony. We have a lot of work to do before we can cover all of

the subjects that were discussed this morning, but through the course of the year we hope we will be able to talk about most of them and provide corrective measures. We don't know at this point because we don't know just what kind of dollars we're dealing with. But we will do the best we can, and with your help I think we can achieve some degree of success.

Thank you very much. If there are no other comments, we will adjourn the meeting.

[Whereupon, at 11:03 a.m., the subcommittee was adjourned.]

99TH CONGRESS
1ST SESSION

H. R. 85

To amend title 38, United States Code, to revise the formula for the payment of dependency and indemnity compensation (DIC) to the surviving spouses of veterans who die on active duty or from service-connected disabilities.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 1985

Mr. MONTGOMERY (for himself and Mr. HAMMERSCHMIDT) (by request) introduced the following bill; which was referred to the Committee on Veterans' Affairs

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A BILL

To amend title 38, United States Code, to revise the formula for the payment of dependency and indemnity compensation (DIC) to the surviving spouses of veterans who die on active duty or from service-connected disabilities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Dependency and Indemnity Compensation Reform Act of 1985".

SEC. 2. (a) Subsection (a) of section 411 of title 38, United States Code, is amended—

(1) by striking out the matter preceding the table and inserting in lieu thereof the following:

★

"(a)(1) Inservice dependency and indemnity compensation shall be paid based on the pay grade of the person upon whose death entitlement is predicated at monthly rates set forth in the following table:"; and

(2) by adding at the end the following:

"(2)(A) Postservice dependency and indemnity compensation shall be paid based on the percentage of service-connected disability (at time of death) of the person upon whose death entitlement is predicated at monthly rates set forth in the following table:

"Percent of Service-Connected Disability	Monthly Rate
0	$475
10	490
20	505
30	525
40	535
50	555
60	565
70	575
80	600
90	625
100	675
100+	750

"(B) For the purposes of the table in subparagraph (A) of this paragraph—

"(i) a person shall be considered to have a service-connected disability of 100+ if the person was entitled (or but for the receipt of retirement pay ~~would~~ have been entitled) to compensation at time of death under any of subsections (l)–(r) of section 314 of this title; and

"(ii) a rating of 100 percent that is a temporary rating based upon hospitalization, treatment, or surgery shall be disregarded.".

(b) Section 411 of such title is further amended by adding at the end the following new subsections:

"(e) The monthly rate of inservice dependency and indemnity compensation payable under subsection (a)(1) of this section to the surviving spouse of a person who died in the active military, naval, or air service shall be increased, based upon the amount of active duty served by the person upon whose death is predicated, by the following amounts:

"Amounts of Active Duty Served	Monthly DIC Increase
Less than 4 years	$0
4 years but less than 10 years	25
10 years but less than 15 years	50
15 years but less than 20 years	75
20 or more years	100

"(f) For the purposes of this section:

"(1) The term 'inservice dependency and indemnity compensation' means dependency and indemnity compensation paid—

"(A) to a surviving spouse of a person who died in the active military, naval, or air service; or

"(B) to a surviving spouse of a person who died after discharge or release from active military, naval, or air service who (i) was awarded such compensation effective before December 1,

1985, and (ii) has not made an election under subsection (g) of this section to receive postservice dependency and indemnity compensation under subsection (a)(2) of this section.

"(2) The term 'postservice dependency and indemnity' means dependency and indemnity compensation paid to a person who—

"(A) is the surviving spouse of a person who died after discharge or release from active military, naval, or air service; and

"(B) is awarded such compensation effective on or after December 1, 1985 (or is awarded such compensation before that date and makes an election under subsection (g) of this section).

"(g)(1) A person who is awarded dependency and indemnity compensation effective before December 1, 1985, based upon the service of a person who died after discharge or release from active military, naval, or air service may elect to receive such compensation under paragraph (2) of subsection (a) of this section.

"(2) An election under paragraph (1) of this subsection shall be in writing and shall be made in such form and manner as the Administrator may prescribe. Any such election is irrevocable.

"(3) An election under paragraph (1) of this subsection made before June 1, 1986, is effective on December 1, 1985. An election made on or after that day is effective on the first day of the first month after the month during which the election is made.".

SEC. 3. The amendments made by this Act shall take effect on December 1, 1985.

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99TH CONGRESS
1ST SESSION

H. R. 1709

To amend title 38, United States Code, to increase from $35,000 to $50,000 the maximum amount of life insurance coverage provided under the Servicemen's and Veterans' Group Life Insurance programs and to extend eligibility under the Veterans' Group Life Insurance program to members of the Individual Ready Reserve and the Inactive National Guard.

IN THE HOUSE OF REPRESENTATIVES

MARCH 25, 1985

Mr. MONTGOMERY introduced the following bill; which was referred to the Committee on Veterans' Affairs

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A BILL

To amend title 38, United States Code, to increase from $35,000 to $50,000 the maximum amount of life insurance coverage provided under the Servicemen's and Veterans' Group Life Insurance programs and to extend eligibility under the Veterans' Group Life Insurance program to members of the Individual Ready Reserve and the Inactive National Guard.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMOUNT OF INSURANCE UNDER SERVICEMEN'S GROUP LIFE INSURANCE PROGRAM.

(a) INSURANCE ON ENTERING SERVICE.—Subsection (a) of section 767 of title 38, United States Code, is amended—

(1) by striking out "35,000" and inserting in lieu thereof "$50,000"; and

(2) by striking out "the amount of $30,000, $25,000, $20,000, $15,000, $10,000 or $5,000" and inserting in lieu thereof "an amount less than $50,000 that is evenly divisible by $10,000".

(b) LATER INSURANCE.—Subsection (c) of such section is amended by striking out "the amount of" the first place it appears and all that follows through "as the case may be," and inserting in lieu thereof "any amount less than $50,000, he may thereafter be insured under this subchapter in the amount of $50,000 or any lesser amount evenly divisible by $10,000".

(c) RETIRED RESERVE.—Subsection (d) of such section is amended—

(1) by striking out "the effective date of this subsection" each place it appears and inserting in lieu thereof "January 1, 1986"; and

(2) by striking out "up to a maximum of $35,000 (in any amount divisible by $5,000)" and inserting in

lieu thereof "in the amount of $50,000 or any lesser amount evenly divisible by $10,000".

SEC. 2. VETERANS' GROUP LIFE INSURANCE PROGRAM.

(a) AMOUNT OF INSURANCE.—Subsection (a) of section 777 of title 38, United States Code, is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "Veterans' Group Life Insurance shall be issued in the amounts specified in section 767(a) of this title. In the case of any individual, the amount of Veterans' Group Life Insurance may not exceed the amount of Servicemen's Group Life Insurance coverage continued in force after the expiration of the period of duty or travel under section 767(b) or 768(a) of this title."; and

(2) by striking out "$35,000" in the second sentence and both places it appears in the last sentence and inserting in lieu thereof "$50,000".

(b) ELIGIBILITY FOR MEMBERS OF THE IRR AND INACTIVE GUARD.—Such section is further amended by adding at the end the following new subsection:

"(h)(1) Notwithstanding any other provision of the law, members of the Individual Ready Reserve and the Inactive National Guard are eligible to be insured under Veterans' Group Life Insurance. Any such member shall be so insured upon submission of an application in the manner prescribed

by the Administrator and the payment of premiums as required under this section.

"(2) Notwithstanding subsection (b)(2) of this section, Veterans' Group Life Insurance coverage under this subsection shall be issued on a renewable five-year term basis, but the person insured must remain a member of the Individual Ready Reserve or Inactive National Guard through the period of the insurance in order for the insurance of such person to be renewed.

"(3) For the purposes of this subsection, the terms 'Individual Ready Reserve' and 'Inactive National Guard' have the meaning prescribed by the Administrator in consultation with the Secretary of Defense.".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect on January 1, 1986.

I

99TH CONGRESS
1ST SESSION

H. R. 1568

To amend title 38, United States Code, to require that the Veterans' Administration maintain a regional office in each State.

IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 1985

Mr. LEATH of Texas introduced the following bill; which was referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to require that the Veterans' Administration maintain a regional office in each State.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. VA REGIONAL OFFICES IN EACH STATE.

(a) IN GENERAL.—Section 230(a) of title 38, United States Code, is amended—

(1) by inserting after the first sentence the following new sentences: "The Administrator shall maintain a regional office in each State. Such offices shall be responsible for adjudicating and processing claims for benefits under chapters 11, 13, and 15 of this title,

claims for educational benefits under chapters 30, 31, 32, 34, 35, and 36 of this title, applications for loans under chapter 37 of this title, and applications for assistance under chapter 39 of this title.";

(2) by inserting "other" in the last sentence after "establish such"; and

(3) by striking out "such other" in the last sentence.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1985.

I

99TH CONGRESS
1ST SESSION

H. R. 1537

To amend title 38, United States Code, to provide for the payment of dependency and indemnity compensation (DIC) to the surviving spouse of a Commandant of the Coast Guard who dies from a service-connected disability at the same rate as provided to the surviving spouses of members of the Armed Forces who serve as a member of the Joint Chiefs of Staff.

IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 1985

Mr. APPLEGATE introduced the following bill; which was referred to the Committee on Veterans' Affairs

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A BILL

To amend title 38, United States Code, to provide for the payment of dependency and indemnity compensation (DIC) to the surviving spouse of a Commandant of the Coast Guard who dies from a service-connected disability at the same rate as provided to the surviving spouses of members of the Armed Forces who serve as a member of the Joint Chiefs of Staff.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) footnote 2 of the table in section 411(a) of title 38, United States Code, is amended by striking out "or Commandant of the Marine Corps," and inserting in lieu thereof

"Commandant of the Marine Corps, or Commandant of the Coast Guard,".

(b) The amendment made by subsection (a) shall take effect on October 1, 1985.

I

99TH CONGRESS
1ST SESSION

H. R. 1538

To amend title 38, United States Code, to provide a 4.1 percent increase in the rates of compensation and of dependency and indemnity compensation (DIC) paid by the Veterans' Administration.

IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 1985

Mr. APPLEGATE (for himself, Mr. SOLOMON, Mr. MONTGOMERY, and Mr. HAMMERSCHMIDT) introduced the following bill; which was referred to the Committee on Veterans' Affairs

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A BILL

To amend title 38, United States Code, to provide a 4.1 percent increase in the rates of compensation and of dependency and indemnity compensation (DIC) paid by the Veterans' Administration.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Compensation Rate Amendments of 1985".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is ex-

pressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. DISABILITY COMPENSATION.

(a) IN GENERAL.—Section 314 is amended—

(1) by striking out "$66" in subsection (a) and inserting in lieu thereof "$69";

(2) by striking out "$122" in subsection (b) and inserting in lieu thereof "$127";

(3) by striking out "$185" in subsection (c) and inserting in lieu thereof "$193";

(4) by striking out "$266" in subsection (d) and inserting in lieu thereof "$277";

(5) by striking out "$376" in subsection (e) and inserting in lieu thereof "$391";

(6) by striking out "$474" in subsection (f) and inserting in lieu thereof "$493";

(7) by striking out "$598" in subsection (g) and inserting in lieu thereof "$623";

(8) by striking out "$692" in subsection (h) and inserting in lieu thereof "$720";

(9) by striking out "$779" in subsection (i) and inserting in lieu thereof "$811";

(10) by striking out "$1,295" in subsection (j) and inserting in lieu thereof "$1,348";

(11) by striking out "$1,609" and "$2,255" in subsection (k) and inserting in lieu thereof "$1,675" and "$2,347", respectively;

(12) by striking out "$1,609" in subsection (l) and inserting in lieu thereof "$1,675";

(13) by striking out "$1,774" in subsection (m) and inserting in lieu thereof "$1,847";

(14) by striking out "$2,017" in subsection (n) and inserting in lieu thereof "$2,100";

(15) by striking out "$2,255" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,347";

(16) by striking out "$968" and "$1,442" in subsection (r) and inserting in lieu thereof "$1008" and "$1,501", respectively;

(17) by striking out "$1,449" in subsection (s) and inserting in lieu thereof "$1,508"; and

(18) by striking out "$280" in subsection (t) and inserting in lieu thereof "$291".

(b) SPECIAL RULE.—The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10

of Public Law 85–857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 3. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 315(1) is amended—

(1) by striking out "$79" in clause (A) and inserting in lieu thereof "$82";

(2) by striking out "$132" and "$42" in clause (B) and inserting in lieu thereof "$137" and "$44", respectively;

(3) by striking out "$54" and "$42" in clause (C) and inserting in lieu thereof "$56" and "$44", respectively;

(4) by striking out "$64" in clause (D) and inserting in lieu thereof "$67";

(5) by striking out "$143" in clause (E) and inserting in lieu thereof "$149"; and

(6) by striking out "$120" in clause (F) and inserting in lieu thereof "$125".

SEC. 4. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 362 is amended by striking out "$349" and inserting in lieu thereof "$363".

SEC. 5. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 411 is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E–1	$496	W–4	$710
E–2	510	O–1	627
E–3	523	O–2	646
E–4	557	O–3	692
E–5	572	O–4	732
E–6	584	O–5	807
E–7	613	O–6	909
E–8	646	O–7	983
E–9	[1] 676	O–8	1,077
W–1	627	O–9	1,157
W–2	652	O–10	[2] 1,267
W–3	670		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $729.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,359.";

(2) by striking out "$55" in subsection (b) and inserting in lieu thereof "$57";

(3) by striking out "$143" in subsection (c) and inserting in lieu thereof "$149"; and

(4) by striking out "$70" in subsection (d) and inserting in lieu thereof "$73".

SEC. 6. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 413 is amended—

(1) by striking out "$240" in clause (1) and inserting in lieu thereof "$250";

(2) by striking out "$345" in clause (2) and inserting in lieu thereof "$359";

(3) by striking out "$446" in clause (3) and inserting in lieu thereof "464"; and

(4) by striking out "$446" and "$90" in clause (4) and inserting in lieu thereof "$464" and "$94", respectively.

SEC. 7. SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 414 is amended—

(1) by striking out "$143" in subsection (a) and inserting in lieu thereof "$149";

(2) by striking out "$240" in subsection (b) and inserting in lieu thereof "$250"; and

(3) by striking out "$122" in subsection (c) and inserting in lieu thereof "$127".

SEC. 8. EFFECTIVE DATE FOR RATE INCREASES.

Sections 2 through 7 shall take effect on December 1, 1985.

PREPARED STATEMENT OF HON. MARVIN LEATH OF TEXAS

Mr. Chairman, I appreciate the opportunity to make this statement in support of my bill, H.R. 1568. Simply stated, my bill would require the VA to maintain at least one regional office in each state as they have today.

My bill would end once and for all the ridiculous proposals coming out of the Office of Management and Budget (OMB) to strip from the Veterans Administration regional offices throughout the country their major adjudication functions and centralize these functions into three locations.

Under existing law, if the Administrator of Veterans Affairs plans a major reorganization, such as that being proposed again this year by OMB, he is required to submit to the Congress, concurrently with his budget proposal, a detailed plan and timetable for the plan. I was the chief sponsor of this provision of law.

In his budget submission for fiscal year 1986, the President proposes a major consolidation similar to the one he proposed for fiscal year 1982. The Administrator's detailed plan and justification was set out in a two-page letter to the Chairman of the full committee dated February 1, 1985. In response to that letter, the Chairman and Ranking Minority Member of the full committee informed the Administrator that he had not complied with the law and stated that in their opinion he would be without authority to move with any consolidation of regional office functions during fiscal year 1986 because he had provided us with no details. I concur with the Chairman.

That notwithstanding, the Administrator has, through his General Counsel, issued an opinion that is nothing more than smoke, shadows and mirrors. It appears that a decision was made by the Administrator that the two-page letter contained sufficient detail to the Congress and the General Counsel has seen fit to write an opinion that the two-page letter was adequate to meet the statutory requirements of an adequate notice. In essence, the Administrator appears to be telling Members of the House and Senate that the decision has been made to consolidate the major functions of the regional offices and, based on some justification which he anticipates will occur in the future, he is going to proceed with the reorganization plan. Although the law requires that he provide detailed plans to the Congress, he has not informed us when the consolidation will take place, what it will cost, where the new offices will be, what will happen to the affected employees, and any number of other data pertinent to such a major move.

I see no way to stop this kind of illegal activity except through the legislative process. It should not be that way but we find ourselves in the position of having to do it.

I regret this action is necessary, Mr. Chairman, but this is not the first time the administration has tried to remove the processing of disability and death claims from each state. The Veterans Affairs Committee rejected such a proposal in 1982 and it was discarded forthwith by the Congress.

Again, Mr. Chairman, I want to express my appreciation to you and the Members of the Subcommittee for allowing me to present this statement for your consideration. I am hopeful you will all agree with me and send the message one more time that we intend to keep regional offices in each state where veterans will have a reasonable chance to come in to discuss their claims on a one-on-one basis with the people who will make the decision.

OFFICE OF THE ADMINISTRATOR OF VETERANS AFFAIRS,
Washington, DC, March 9, 1985.

Hon. THOMAS P. O'NEILL, JR.,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I am pleased to submit a draft bill to increase the statutory rates of disability compensation for veterans and rates of dependency and indemnity compensation for surviving spouses and children of veterans, and for other purposes. I respectfully request that it be referred to the appropriate committee and enacted promptly.

Title I would authorize the increased rates of disability compensation and dependency and indemnity compensation. The disability compensation program is designed to provide monetary relief from impairments in earning capacity suffered by veterans disabled during, or as a result of, military service. Rates of compensation vary with the degrees of disability demonstrated, and additional compensation is payable for dependents if the veteran's disability is rated 30 percent or more disabling.

Dependency and indemnity compensation (DIC) benefits are payable under chapter 13 of title 38 to the surviving spouses and children of veterans whose deaths were service connected. Payments at DIC rates may also be made if a veteran's death was not service connected but the veteran was rated as totally disabled for a

specified period prior to death. Surviving spouses' DIC rates are based on the veterans' military pay grades. A surviving spouse may receive additional payments for the veteran's children under the age of eighteen, or if the surviving spouse is disabled. Children over the age of eighteen who become helpless before reaching that age may receive DIC, as can those age eighteen to twenty-three attending approved educational institutions. If there is no surviving spouse, a child under the age of eighteen may also receive DIC in the child's own right.

The administration of the disability compensation and DIC programs is one of the VA's most important missions. We recognize a duty to recommend periodic adjustments in monthly rates as economic conditions change.

In recent years, compensation adjustments have been keyed to indexed cost-of-living increases in Social Security and VA pensions. The current projection is for a 4.1 percent increase in Social Security rates when they are adjusted in December 1985. Accordingly, we recommend a corresponding increase of 4.1 percent in the rates of disability compensation and DIC, effective December 1, 1985.

Section 101 of the draft bill would increase rates of disability compensation, including the so-called special monthly compensation rates (except for the "K" rate), by approximately 4.1 percent. As with all rates in our proposal, odd amounts resulting from our computations were rounded down to the nearest dollar.

Sections 102 and 103, respectively, would provide for an approximate 4.1 percent increase in rates of additional compensation for dependents, and in the clothing allowance payable under section 362 of title 38 to certain veterans wearing or using prosthetic or orthopedic appliances.

Sections 104 through 106 would increase DIC rates by approximately 4.1 percent, effective December 1, 1985.

Our five-year estimate of the cost of the enactment of the proposed increases under title I, based on a 4.1 percent rate adjustment, is as follows (in millions of dollars):

Fiscal year:	*Cost*
1986	$342.8
1987	411.8
1988	412.7
1989	412.4
1990	412.4

Title II contains four proposals to improve veterans' benefits programs by amending eligibility requirements. Section 201 would change the effective date for a reduction or discontinuance of benefits that are based upon school attendance of a payee or payee's dependent. Under current law, reductions would occur as of the last day of the month in which the school attendance is discontinued. Under our proposal, the effective date for reduction or discontinuance would be the day following the last date of attendance, based upon section 3012(a) of title 38.

This change would conform to current rules for discontinuing benefits for, or on behalf of, a child as of its eighteenth birthday. We believe there is no substantial difference between terminating benefits based upon a child's attainment of age eighteen and terminating benefits for an adult student between the ages of eighteen and twenty-three who discontinues his or her attendance.

We estimate enactment of this proposal would result in benefit savings of less than $1 million and administrative costs amounting to less than $100,000 in any fiscal year.

Section 202 would amend section 101(22) of title 38, relating to the definition of "active duty for training," in order to permit the full-time operational duty performed by National Guard and Air National Guard members to be considered "active duty" for title 38 purposes. Under section 101(21)(A) of title 38, active duty means full-time duty in the armed forces other than active duty for training. Under section 101(22)(C), active duty for training, with respect to guard members, means full-time duty authorized under title 32, regardless of whether the duty is performed for operational or training purposes. This amendment would limit "active duty for training" performed by guard personnel to full-time duty performed for training purposes.

In recent years, guard members called to full-time operational duty (usually to serve as instructors or recruiters) have been assigned active guard and reserve (AGR) status if the duty period is 180 days or more, and active duty support (ADS) status if the duty period is 179 days or less. These designations have led to some confusion on the part of guard members as to their eligiblity for title 38 benefits. Although a guard member on AGR or ADS status who is disabled in the line of duty would be eligible for VA compensation, "active duty for training" is not qualifying

for certain other title 38 benefits, primarily home loan guaranty benefits and health care on a nonservice-connected basis.

Generally, loan guaranty eligiblity requires 181 days of continuous active duty, either for service personnel or peacetime veterans. The amendment made by this section would, therefore, assist guard members in AGR and ADS status to qualify for benefits on the same basis as other active-duty service members and peacetime veterans. Our amendment would be effective with respect to duty performed after September 30, 1985; however, guard members in AGR or ADS status as of the date of enactment would be able to include their days of service prior to that date in qualifying for loan guaranty benefits.

We estimate enactment of this proposal would result in benefit costs of less than $1 million in any fiscal year, and VA would incur less than $100,000 in administrative costs.

Recognition of a child as the legally adopted child of a veteran under current law may give rise to additional benefits, including increased compensation or pension payments to the adopting veteran, and dependency and indemnity compensation and educational benefit entitlement for the child. Our proposed section 203 would amend criteria for recognition of foreign adoptions, which are set forth in section 101(4)(B) of title 38. Specifically, the proposal would provide that an adoptee could not be considered the legally adopted child of a veteran for the purposes of benefits eligibility under title 38 unless the adoption occurred prior to the date any entitlement of the veteran to disability compensation or pension arose. The amendment would apply only to an adoption under the laws of a jurisdiction other than a state, territory, possession of the United States, the District of Columbia, Puerto Rico, or the Northern Mariana Islands, and only where the adoptee resides in a foreign jurisdiction.

Our proposal is designed to address a longstanding problem concerning recognition of adoption decrees issued under the laws of foreign jurisdictions. Foreign courts in some cases grant adoptions without observance of standards comparable to those applied in courts of this country. In a number of instances, foreign courts have permitted aged, infirm veterans to adopt young relatives over whom they have no intention of assuming a true parental relationship. The sole motivation for these adoptions appears to be a desire to obtain increased veterans' benefits or to assure benefits entitlement for the adoptee upon the veteran's death.

The high value of United States veterans' benefits in some foreign economies creates a substantial incentive for contrived adoptions. For example, in the Philippines, the additional pension payable to a veteran for an adopted child is reported to be comparable to the salary of a rural schoolteacher. Adoption of a child will in many cases result in a substantial economic gain to a veteran residing abroad. While economic conditions in the Philippines and the large number of veterans residing there make that country a primary source of concern, the VA has received claims based on questionable adoptions granted in other foreign jurisdictions.

In recognition of the threat to the integrity of the veterans' benefit programs posed by contrived adoptions, Congress in 1979 enacted standards for recognition of foreign adoptions. Section 401 of Public Law No. 96-22, 93 Stat. 47 (1979), added a new section 101(4)(B) to U.S. Code title 38 providing that a person residing outside the United States adopted under the laws of a foreign jurisdiction shall not be considered the legally adopted child of a veteran unless stated criteria relating to age at the time of adoption, support from the veteran, residence with the veteran, and absence of custody by a natural parent, are met. In the case of a deceased veteran, the adopted child must have met the requirements for at least one year prior to the veteran's death or the veteran must have received benefits for the child during the year preceding death.

Although the 1979 amendment has been of considerable benefit in combating adoption abuses, experience with the statute has revealed significant difficulties in administration, particularly in applying custody and residence criteria. We know of at least two claims in which the VA has recognized foreign adoptions under the amended statute where the motivation for the adoption must be considered suspect. Both claims involved the adoption of children by aged grandparents in receipt of veterans' pension benefits. In neither case did the adoption appear to serve any purpose other than generation of additional pension entitlement, and in both cases natural parents remained in close proximity to the adopted children and continued personal contact with them.

Even where the adoption criteria can be applied to bar questionable claims, the criteria have proven burdensome to administer. Development of evidence in foreign adoption claims is difficult, and adjudication of these claims is often complex and time-consuming.

The proposed amendment would greatly reduce the potential for abuse and simplify claim development by permitting recognition of a foreign adoption only if the adoption took place before the veteran's benefit entitlement arose. Where this standard is met, existing criteria would serve as a further safeguard against contrived claims. In this way, the proposed amendment would further Congress' objective, in enacting Public Law No. 96–22, to preclude entitlement based on adoptions entered for the sole purpose of securing veterans' benefits.

A comparable provision has been in force in Social Security old-age and disability insurance programs for a number of years. Under section 402(d)(8)(D) of U.S. Code title 42, a child adopted after an individual becomes entitled to old-age or disability benefits is not considered as meeting the dependency requirements for child's insurance benefits unless the child is the natural child or stepchild of the individual, or was legally adopted in a United States court and met residence, support and age criteria prior to commencement of the individual's entitlement. Thus, a child other than a natural child or stepchild, adopted in a foreign jurisdiction after the date of the adopting parent's entitlement, cannot be considered a dependent for purposes of child's insurance benefits.

The proposed amendment to the veterans' benefit statutes is expected to result in annual cost savings of less than one million dollars. Savings would be realized both by limiting inappropriate benefit payments and through improved administrative efficiency.

Section 204 would amend section 360 of title 38, which affords special consideration regarding payment of compensation in cases where veterans have suffered certain service-connected disabilities affecting a single eye, ear, or kidney in combination with certain nonservice-connected disabilities affecting the other eye, ear, or kidney. Under present law, if a veteran has suffered service-connected blindness in one eye, service-connected deafness in one ear, or service-connected loss or loss of use of one kidney, in combination with nonservice-connected blindness in the other eye, deafness in the other ear, or severe involvement of the other kidney (resulting in total disability), compensation at the appropriate rate is paid as if the disabilities affecting both organs were service-connected.

Section 360 of title 38 was originally enacted in recognition of the additional disability attendant to nonservice-connected loss or loss of use of a second paired organ where service connection is established for the impairment of the first. It serves to equate, in terms of compensation, these types of cases with those where the disability affecting both organs is adjudicated as service-connected.

Section 204 would extend the principle of "paired organ impairment" to certain disabilities of the lungs so that if a veteran has suffered permanent disability of one lung, rated 50 percent or more disabling under the relevant criteria, which is totally disabling in combination with a nonservice-connected disability of the other lung, compensation would be paid at the total disability rate.

Our estimates indicate this proposal would result in less than $1 million in benefit costs and less than $100,000 in administrative costs in any fiscal year.

Title III contains a single proposal, which would extend the authority of the Administrator of Veterans' Affairs to maintain a regional office in the Republic of the Philippines. Under present law, the Administrator is authorized to operate a regional office in the Philippines until September 30, 1985. Section 301 would extend this authority to September 30, 1988.

It has been our experience that the operation of a regional office in the Republic of the Philippines is the most efficacious means of administering the VA programs which provide disability compensation, pensions and educational benefits to tens of thousands of Filipino beneficiaries. In fiscal year 1983, for example, over $125 million in benefits were paid to these individuals. Our proposal would enable this Agency to continue meeting the needs of the residents of the Philippines in a cost-effective manner.

Enactment of section 301 would entail administrative costs of approximately $1.4 million in any fiscal year.

Advice has been received from the Office of Management and Budget that enactment of this legislative proposal would be in accord with the program of the President.

Sincerely,

HARRY N. WALTERS
Administrator.

Enclosure.

A BILL To amend title 38, United States Code, to increase the rates of compensation for disabled veterans and the rates of dependency and indemnity compensation for surviving spouses and children of veterans; and for other purposes.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

SECTION 1. (a) This Act may be cited as the "Veterans' Disability Compensation and Survivor Benefits Amendments of 1985".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

RATES OF DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended—

(1) by striking out "$66" in subsection (a) and inserting in lieu thereof "$68";

(2) by striking out "$122" in subsection (b) and inserting in lieu thereof "$127";

(3) by striking out "$185" in subsection (c) and inserting in lieu thereof "$192";

(4) by striking out "$266" in subsection (d) and inserting in lieu thereof "$276";

(5) by striking out "$376" in subsection (e) and inserting in lieu thereof "$391";

(6) by striking out "$474" in subsection (f) and inserting in lieu thereof "$493";

(7) by striking out "$598" in subsection (g) and inserting in lieu thereof "$622";

(8) by striking out "$692" in subsection (h) and inserting in lieu thereof "$720";

(9) by striking out "$779" in subsection (i) and inserting in lieu thereof "$810";

(10) by striking out "$1,295" in subsection (j) and inserting in lieu thereof "$1,348";

(11) by striking out "$1,609" and "$2,255" in subsection (k) and inserting in lieu thereof "$1,674" and "$2,347", respectively;

(12) by striking out "$1,609" in subsection (l) and inserting in lieu thereof "$1,674";

(13) by striking out "$1,774" in subsection (m) and inserting in lieu thereof "$1,846";

(14) by striking out "$2,017" in subsection (n) and inserting in lieu thereof "$2,099";

(15) by striking out "$2,255" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,347";

(16) by striking out "$968" and "$1,442" in subsection (r) and inserting in lieu thereof "$1,007" and "1,501", respectively;

(17) by striking out "$1,449" in subsection (s) and inserting in lieu thereof "$1,508"; and

(18) by striking out "$280" in subsection (t) and inserting in lieu thereof "$291".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended—

(1) striking out "$79" in clause (A) and inserting in lieu thereof "$82";

(2) by striking out "$132" and "$42" in clause (B) and inserting in lieu thereof "$137" and "$43", respectively;

(3) by striking out "$54" and "$42" in clause (C) and inserting in lieu thereof "$56" and "$43", respectively;

(4) by striking out "$64" in clause (D) and inserting in lieu thereof "$66";

(5) by striking out "$143" in clause (E) and inserting in lieu thereof "$148"; and

(6) by striking out "$120" in clause (F) and inserting in lieu thereof "$124".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$349" and inserting in lieu thereof "$363".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 104. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$495	W-4	$709
E-2	$510	O-1	$626
E-3	$522	O-2	$646
E-4	$556	O-3	$692
E-5	$571	O-4	$731
E-6	$584	O-5	$806
E-7	$613	O-6	$908
E-8	$646	O-7	$982
E-9	[1] $675	O-8	$1,077
W-1	$626	O-9	$1,156
W-2	$651	O-10	[2] $1,266
W-3	$670		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $728.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,358.".

(b) Subsection (b) of such section is amended by striking out "$55" and inserting in lieu thereof "$57".

(c) Subsection (c) of such section is amended by striking out "$143" and inserting in lieu thereof "$148".

(d) Subsection (d) of such section is amended by striking out "$70" and inserting in lieu thereof "$72".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 105. Section 413 is amended—

(1) by striking out "$240" in clause (1) and inserting in lieu thereof "$249";

(2) by striking out "$345" in clause (2) and inserting in lieu thereof "$359";

(3) by striking out "$446" in clause (3) and inserting in lieu thereof "$464"; and

(4) by striking out "$446" and "$90" in clause (4) and inserting in lieu thereof "$464" and "$95", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 106. Section 414 is amended—

(1) by striking out "143" in subsection (a) and inserting in lieu thereof "$148";

(2) by striking out "$240" in subsection (b) and inserting in lieu thereof "$249"; and

(3) by striking out "$122" in subsection (c) and inserting in lieu thereof "$127".

EFFECTIVE DATE

SEC. 107. Sections 101 through 106 shall take effect on December 1, 1985.

TITLE II—OTHER VETERANS' PROGRAM IMPROVEMENTS

DISCONTINUANCE OF BENEFITS BASED ON SCHOOL ATTENDANCE AS OF THE LAST DATE OF ATTENANCE

SEC. 201. Section 3012(b) is amended—

(1) by striking out clause (7); and

(2) by redesignating clauses (8), (9), and (10) as clauses (7), (8), and (9), respectively.

ACTIVE DUTY STATUS BASED ON AGR OR ADS SERVICE BY RESERVISTS AND NATIONAL GUARD PERSONNEL

SEC. 202. (a) Paragraph (22) of section 101 is amended in clause (C) by inserting "performed for training purposes under title 10 or" after "full-time duty".

(b)(1) The amendment made by subsection (a) shall be effective with respect to duty performed after September 30, 1985.

(2) Any member or former member of the National Guard or Air National Guard in active guard and reserve or active duty support status as of the date of enactment of this Act shall be eligible for benefits under chapter 37 of title 38, United States Code, if the member (or former member) continuously served in such status for 181 days or more prior to application therefor and is otherwise eligible.

LIMITATION OF CIRCUMSTANCES UNDER WHICH ADOPTED CHILDREN MAY BE CONSIDERED DEPENDENTS

SEC. 203. Section 101(4)(B)(i) is amended—

(1) by striking out "and" at the end of clause (III); and

(2) by adding the following new clause (V): "(V) was adopted by the veteran prior to the date any entitlement of the veteran to benefits under chapters 11 or 15 of this title arose; and".

EXTENSION OF "PAIRED ORGAN" CRITERIA TO DISABILITIES INVOLVING THE LUNGS

SEC. 204. Section 360 is amended—

(1) By inserting after clause (3) "or" followed by a new clause (4) to read as follows: "(4) has suffered permanent service-connected disability of one lung, rated 50 percent or more disabling, which is totally disabling in combination with nonservice-connected disability of the other lung that is not the result of the veteran's own willful misconduct,"; and

(2) by inserting "or such bilateral lung disabilities" after "such total deafness in both ears".

TITLE III—EXTENSION OF AUTHORITY TO OPERATE A REGIONAL OFFICE IN THE REPUBLIC OF THE PHILIPPINES

SEC. 301. Section 230(b) is amended by striking out "1985" and inserting in lieu thereof "1988".

STATEMENT OF JOHN W. HAGAN, JR., ACTING CHIEF, BENEFITS DIRECTOR, VETERANS ADMINISTRATION

Good morning, Mr. chairman and members of the Subcommittee. I am pleased to be here today to discuss the views of the Veterans Administration on several bills pending before you. With your permission, I will first address the proposed cost-of-living increases in disability compensation for veterans and dependency and indemnity compensation (DIC) for surviving spouses and children of veterans.

Mr. Chairman, the Veterans Administration supports a cost-of-living increase in disability compensation and DIC rates in order to help offset the erosion of purchasing power resulting from increases in consumer prices. Under our proposal, the adjustment in rates are keyed to the anticipated cost-of-living increases in Social Security and VA pensions, and like them would be effective December 1, 1985.

When the President's budget was transmitted to Congress earlier this year, the Administration estimated the cost-of-living adjustment for Social Security would be 4.1 percent. Since that time, however, the Senate Republican leadership and the Administration have agreed to a budget proposal that would provide Social Security

recipients a 2.0 percent COLA for 1986, 1987 and 1988, with the provision that any increase over the projected inflation rates will be added to the COLA.

This Government-wide policy would also apply to VA compensation and pension rates. We continue to support a COLA for VA disability compensation and DIC rates equal to that eventually extended to Social Security recipients, to take effect at the same time.

Mr. Chairman, section 101 of the VA's draft bill would increase rates of disability compensation, including the so-called special monthly compensation rates (except for the "K" rate), by approximately 4.1 percent. Sections 102 and 103, respectively, would provide for an approximate 4.1 percent increase in the rates of additional compensation for dependents, and in the clothing allowance payable under section 362 of title 38 to certain veterans wearing or using prosthetic or orthopedic appliances. Sections 104 through 106 would increase dependency and indemnity compensation rates by approximately 4.1 percent. As I mentioned, these cost-of-living increases would be effective December 1, 1985. Again, we recommend that the COLA rates in these sections equal the COLA rate eventually extended to Social Security recipients.

The fiscal year 1985 cost of our proposed 4.1 percent rate increase is estimated to be $342.8 million. Assuming instead a 2.0 percent COLA, the cost of the rate adjustments in fiscal year 1986 would be approximately $170 million.

In addition, Mr. Chairman, we have evaluated the VA proposal in light of H.R. 1538, your bill to provide a similar cost-of-living increase in the rates of disability compensation and DIC benefits. Our draft bill differs slightly from H.R. 1538, inasmuch as odd amounts resulting from computations under the VA proposal were uniformly rounded down to the nearest dollar. H.R. 1538, on the other hand, offers rates in which odd amounts were rounded up or down to the nearest dollar. The VA method would result in a net cost saving over H.R. 1538, with no significant impact on the actual benefits provided to veterans and their survivors.

The remainder of our draft bill contains proposals to improve veterans' benefits programs by amending certain eligibility requirements, and a proposal to extend the authority of the Administrator to maintain a regional office in the Republic of the Philippines.

Section 201 of our draft bill would change the effective date for a reduction or discontinuance of benefits that are based upon school attendance of a payee or a payee's dependent, thereby conforming section 3012(b) of title 38 to the current rules for discontinuing benefits for, or on behalf of, a child as of its eighteenth birthday.

Section 202 of VA's proposal would amend section 101(22) of title 38, relating to the definition of "active duty for training," in order to permit the full-time operational duty performed by National Guard and Air National Guard members to be considered "active duty" for benefit-eligibility purposes. Primarily, the amendment we propose would assist guard members in Active Guard/Reserve status and Active Duty/Support status who serve for 181 days or more to quality for loan guaranty and health-care benefits on the same basis as other veterans of full-time, non-training duty.

Section 203 of our draft bill is designed to preclude the problem of contrived foreign adoptions that are arranged for the purpose of increasing the adopting parent's entitlement to VA benefits. The proposal would provide that an adoptee could not be considered the legally adopted child of a veteran for benefit-eligibility purposes unless the adoption occurred prior to the date the veteran's entitlement to disability compensation or pension arose.

Section 204 would amend section 360 of title 38 to extend the principle of "paired organ impairment" to certain disabilities of the lungs so that if the veteran has suffered service-connected disability of one lung, which is totally disabling in combination with a nonservice-connected disability of the other lung, compensation would be paid at the total disability rate. In so doing, our proposal would afford special consideration to lung disabilities, akin to the consideration given eye, ear, and kidney disabilities under current law.

The final proposal in VA's draft bill would extend the authority of the Administrator of Veterans' Affairs to maintain a regional office in the Philippines until September 30, 1988. The extension of authority would enable this Agency to continue meeting the needs of the residents of the Philippines in a cost-effective manner. The administrative costs of operating the VARO in Manila would be approximately $1.4 million during each of the next 5 fiscal years.

Mr. Chairman, the next item I would like to discuss is H.R. 1537, a bill to provide an increase in the dependency and indemnity compensation rate payable to the surviving spouse of a Coast Guard Commandant. The bill would increase the DIC rate

to the level payable to the surviving spouses of other military service chiefs, and we support its enactment.

Under current law, the surviving spouses of Chairmen of the Joint Chiefs of Staff, of Chiefs of Staff of the Air Force and Army, Chiefs of Naval Operations, and of Commandants of the Marine Corps qualify for higher DIC rates than do surviving spouses of other officers of the same rank (0–10). This is because the base pay of these officers is greater than that for other 0–10's. DIC rates have traditionally been based upon the military pay grades of the individuals upon whose deaths entitlement is predicated. The base pay of the Coast Guard Commandant was recently raised to the level of that for the chiefs of the other branches of services, and a corresponding increase in the DIC rate for a Commandant's surviving spouse is therefore called for. The cost to the Agency of enactment of H.R. 1537 would be negligible.

Mr. Chairman, the next bill, H.R. 1709, is a proposal to increase, to $50,000 (from the current $35,000), the maximum amount of coverage that may be purchased under the Servicemen's Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) program. It would also extend eligibility for insurance under this program to members of the individual Ready Reserve and the Inactive National Guard. The SGLI-VGLI program is designed to provide low-cost term life insurance to active duty servicemembers and other categories of military personnel, including certain reservists, and to enable veterans to continue the insurance during the first post-separation years.

Both SLGI and VGLI are funded by permiums collected from the individual insureds, except that the Government is responsible for costs resulting from the extra hazards of military duty. Unless the Nation were to become involved in an armed conflict, there would be no increased cost to the Government from the enactment of H.R. 1709.

The Veterans Administration defers to the Department of Defense with regard to the merits of the bill.

The final section of H.R. 1709 contemplates January 1, 1986, as the effective date for its provisions. In the event the bill is favorably considered, we suggest making the effective date 90 days after the date of enactment. This would assure the necessary lead-time for implementation of its provisions.

Mr. Chairman, I would now like to turn my attention to H.R. 1568. This bill would not only require the Veterans Administration to maintain at least one full-service regional office in each State, but it would also prohibit any future consoldiation of the claims-processing functions of the regional offices except in those States containing more than one regional office. For the reasons that follow, this Agency strongly opposes the provisions of H.R. 1563.

First, all States now have at least one VA regional office, and there are no plans to close any of these offices. Second, the VA believes enactment of this measure could impede our ability to administer VA programs in the most efficient manner. Morever, it could limit our flexibility and efficiency in adopting to demographic changes in the beneficiary population. Changes in the number and location of veterans and their dependents, as well as technological advances in automated data processing and telecommunications, may compel some restructuring of VA operations in order to assure that high-quality service is delivered most economically.

We have informed this Committee that we have engaged a private consulting firm to conduct an objective evaluation of the Agency's modernization needs. The study will consider many alternatives, including reorganization and consolidation of functions, and the contractor will report its findings and recommendations to the Administrator this summer. We intend to work closely with this Committee, in consultation with veterans' service organizations, to assure that any action taken as a result of this study is based upon as broad a consensus as possible.

Mr. Chairman, the Veterans Administration believes H.R. 1568, however well-intended, is short-sighted. It could unnecessarily prevent our pursuing important management options and work to assure that potential cost savings that may result from some restructuring of operations may never be realized.

Finally, I would like to comment on H.R. 85, a bill that would drastically restructure DIC rates for surviving spouses. It would, for the first time, create a distinction in eligibility based upon whether deaths occurred during military service or post-service. Rates based upon in-service deaths would continue to be tied to the military pay grades of the decedents, with monthly "add-ons" for service of 4 or more years. The rates for survivors of veterans who die after service would be tied to the service-connected disability evaluations in effect for the veterans.

DIC is intended to compensate, at least in part, for lost household income resulting from the death of the servicemember or veteran. This premise requires that

rates under the DIC program should, in general, be set in relation to the economic attainments of the deceased. The VA reported in 1978 that an extensive study had shown the current rate structure, based as it is upon the military pay grades attained, allocated benefits more fairly in relation to lost income than would a number of alternatives.

We believe the current formula should be revised only if an alternative is offered which clearly would allocate available resources more equitably, i.e., which would more accurately compensate in relation to the loss of income to the household. We are not at all convinced H.R. 85 offers such an alternative, and believe it could result in many inequities.

Its provisions for increasing awards for deaths in service appear to be intended to reward for reenlistments. We do not believe DIC was or should be intended as either a "reward" or an inducement for retention of service personnel. Other more readily realizable means (such as reenlistment bonuses) are available as necessary for that purpose.

We also seriously question the desirability of compensating a survivor less because the servicemember's death occurred earlier in his or her service career. Arguably, the loss of the spouse's income to the household will actually be greater over the survivor's lifetime because the death occurred earlier.

Finally, we question the rationale for awarding compensation on the basis of an entirely fortuitous event—the timing of the servicemember's death.

We also oppose the proposal to ties rates of DIC for postservice deaths to the disability ratings the veterans were assigned. Such a scheme would not further the legitimate goal of the program—compensation for lost household income. We have no evidence that loss of income to a family, as a result of a veteran's death, is in proportion to the disability rating assigned. In fact, it is logical to assume that in many cases the death of a veteran who was less disabled and therefore better able to compete in the job market may have a more profound economic impact on the household.

Other inequities of the proposal also demand our opposition. Under it, the survivor of a servicemember killed in action could receive less than the survivor of a veteran who attained the same service rank but who was separated from service virtually able-bodied and lived to an old age. In fact, survivors of members killed in hostilities could actually be entitled to less DIC than survivors of veterans of equal rank whose deaths were not even service connected, but for whom entitlement exists by virtue of 38 U.S.C. § 410(b).

All of these considerations lead us to strenuously oppose enactment of H.R. 85.

We estimate increased benefits costs resulting from enactment would total $254.4 million in FY 1986, rising to $275.7 million by FY 1990. There would also be first-year administrative costs of $5.3 million.

Mr. Chairman, that concludes my formal statement. I will be pleased to answer any questions you or other members of the Subcommittee may have.

OFFICE OF THE ADMINISTRATOR OF VETERANS AFFAIRS,
Washington, DC March 6, 1985.

Hon. DAVID A. STOCKMAN,
Director, Office of Management and Budget, Washington, DC

DEAR MR. STOCKMAN: We have received your budget allowance letter of February 14, 1985 which reflects funding and employment allowances for FY 1985 and 1986 and the outyears. It is noted that the letter contains requests for much additional information between now and July on numerous initiatives.

You can be assured that my staff will work closely with your Veterans Affairs Branch in meeting these initiatives in a timely manner if at all possible. There are, however, a few items which require further clarification.

One item is your suggestion that the Needs Assessment for FY 1986–1990 should agree with the President's budget projetions and should reflect the agreement by OMB and VA policy officials to designate no more than two replacement hospitals and two new nursing homes per year. As we have already discussed, the outyear estimates contained in the budget narratives are plugged numbers. Policy discussions on future year needs must occur before meaningful estimates can be made. Accordingly, our Needs Assessment will be prepared to consider expansion, but estimates will include the same disclaimer which was incorporated in the outyear charts contained in our 1986 narrative budget. It is imperative that the discussions on National health care policy proceed, without delay. Unless some critical decisions are made with respect to the issues, none of the agencies involved will be able to plan properly for the future. I have discussed this with Jack Svahn who agrees that

the Interagency Working Group on Health Policy must place this high on its agenda.

Item two has to do with the assertion that OMB provided $1.25 million for a Survey of Veterans in the FY 1986 budget. The funding was identified in our budget request in September and was eliminated with all other new initiatives except office automation in the General Operating Expenses appropriation. In fact out narrative budget specifically states (see enclosure) that no funds are provided for statistical surveys of veterans in FY 1986.

VA, of course, is willing to assist in anyway it can in updating the 1979 Survey. However, resources will be limited in FY 1986 and if any funding were identified it wold still have to be cleared through the House and Senate Appropriations Committees since the reprogramming would be in excess of $250,000. In view of the uncertainty of funding in FY 1986 it would be inappropriate for VA to issue an RFP at this time.

A third item relates to the functional consolidation of the DVB Regional Offices. While consolidation may result from our modernization efforts, efficient management is the key issue. Consolidation will be considered as a possible option, but we are also considering various other alternatives as was agreed at a meeting with the Deputy OMB Director on February 11, 1985. The Agency is developing plans for modernizing its entire operations. This effort has just begun and, when it is completed sometime around August of this year, a decision will be made as to the best course of action toward improving benefits delivery in the Veterans Administration.

Finally, management improvement items summarized by enclosure C of your letter are still under review and will be discussed later in a separate letter.

In sumamry the VA is committed, as you are, toward providing the best possible care to the Nation's veterans in the most efficient manner possible.

Sincerely,

HARRY N. WALTERS,
Administrator

Enclosure.

OFFICE OF INFORMATION MANAGEMENT AND STATISTICS

VOLUME IV

SUMMARY OF EMPLOYMENT AND OBLIGATIONS

[In thousands of dollars]

	1984 Actual	1985		1986 estimate	Increase(+) Decrease(−)
		Budget estimate	Current estimate		
Transportation of things	3	.....	2	2	.....
Rents, communications and Utilities	12	.....	15	15	.....
Other services	847	1,047	796	252	−544
Supplies and materials	35	41	30	30	.....
Equipment	231	33	40	192	+152
Total obligations	5,797	5,994	5,828	5,207	−621

DETAIL OF BUDGET ESTIMATE

In thousands of dollars

	1984 Actual	1985 Current estimate	1986 estimate	Increase(+) decrease(−)
Personal services	4,631	4,902	4,691	−211
The 1986 estimate reflects the governmentwide 5 percent pay reductioin effective in January 1986.				
Travel:				
Employee Travel	38	41	23	−18
GSA	.....	2	2	.....
Total	38	43	25	−18

DETAIL OF BUDGET ESTIMATE—Continued

In thousands of dollars

	1984 Actual	1985 Current estimate	1986 estimate	Increase (+) decrease (−)
Travel to field facilities is required for production of reports at data processing centers, routine evaluations of activities at our Vital Records Depository in Neosho, MO and for training of reports coordination officers.				
Transportation of things	3	2	2	
These funds will provide for transportation of official records to the VA Records Depository in Neosho, MO.				
Rents, communications and utilities	12	15	15	
These funds are for equipment rental.				
Other service	847	796	252	−544
These funds provide for maintenance and repair of equipment, employee training ADP timesharing services, and other miscellaneous contractual services. These funds do not provide for any statistical surveys of veterans to be conducted in fiscal year 1986.				
Supplies and materials	35	30	30	
These funds are used for normal replacement of non-stock administrative supplies and special supply items.				

STATEMENT OF GERALDINE B. CHITTICK CHAIRMAN, NATIONAL LEGISLATIVE COMMITTEE, GOLD STAR WIVES OF AMERICA, INC.

Chairman Applegate and members of the subcommittee, Thank you for the invitation to participation in this hearing. We in Gold Star Wives of America appreciate the opportunity to be heard so that we might bring to this Committee the concerns of our membership as we observe the direction developing in the DIC program.

We thank the Committee for its continued foresightedness in efforts to protect the rights and benefits of veterans and survivors of our nation's defense. The 4.1 percent increase in DIC rates as provided in H.R. 1538 would be greatly appreciated, especially by those in the lower pay grades. The recent six-month delay in COLA's was borne without too much dismay, even though the basic costs of existence for housing and utilities steadily rose during that period—and one never catches up on that loss. Although it is definitely a hardship on those in the lower pay brackets—and with the hope that some upward adjustment in their rates will be forthcoming in the near future—we will, of course, accept another freeze if called upon to do so as graciously as possible.

Our organization sees no justification for differing schedules of survivor payments, for certainly the supreme sacrifice is nothing less than 100 percent disability and no greater catastrophe can occur in that widow's life. There are compensating circumstances in all classifications of service widows. The adjustment to living on severely decreased income is shared by every widow at the time she become a widow.

We continue to stress the need for adjustment in rates paid to the lower rank survivors. The compensation there is barely above the poverty level—just enough to keep them from qualifying for other assistance—but certainly not sufficient to go very far toward meeting the basic necessities of living. In addition, these same widows are now being adversely affected by the drastic cuts in Medicare payments, for it is happening at a time many WW II widows are losing coverage under CHAMPUS and CHAMPVA. Unfortunately, many were trying to get by without supplementary insurance and now are further devastated by what has happened to them.

What a family's a economic status might have been had the serviceman returned from the military is always an unknown factor. We do know that during WW II, many well-educated and professional men died as E–1's to E–3's because they were patriotic enough to gladly accept their country's call when it was being surely tested. To be penalized further because her husband was needed on the front lines before he had an opportunity to advance to his capabilities is extremely unjust. Many members of God Star Wives went from civilian to war widow in six to eight months—often with young children to rear without benefit of their father's presence and security. Innumerable survivors at that time found life bearable only because they went "home" to parents or received help from parents and in-laws.

The same widows suffering hardship in this category have been further handicapped by the fact that many had no Social Security coverage. Many types of employment were not under Social Security until in the 1950's, and to be covered on

the basis of military service alone took at least eight quarters—and too many did not last that long.

Gold Star Wives of America continues to support the type revision that we have been recommending since 1977 as being a more fair and equitable basis for payment. This is an equal base pay for all, with COLA's being applied only to the base figure, *plus* a set amount based on rank and length of service (which would not change). In this way, every survivor would receive the same dollar increase each time and the spread between top and bottom would remain constant.

We emphasize that this is *not* a return to the formula for payment from 1957 through 1969. At that time, the base pay was equal, but the add-on of 12 percent of the deceased husband's basic pay based on rank and years of service was subject to an increase every time the military pay was increased (sometimes every six months). This 12 percent was seldom enough to increase the pay in the lower grades because the increases in military basic pay were small and did not result in the major portion of one dollar—therefore no increase. During the time that plan was in effect, the monthly rate for E–1 and E–2 ranks had increased only 12.9 percent while that of 0–10's had increased 64.5 percent.

Under the current formula, with the approximately 185 percent increases which have occurred in the past 15 years, the differential between top and bottom has increased from $259 when it went into effect to $741 now. To continue to further increase this spread between top and bottom is unconscionable.

Our organization would like to address one other piece of compensation legislation in the hands of this Committee—that is, H.R. 480 to permit remarriage after age 60 without loss of compensation. We believe it is discriminatory to deny this privilege to a service widow when the husband's contribution was his life. Few retired couples are sufficiently affluent for one person's income to provde complete support—especially if the health of one or the other is impaired. Permitted to marry, they could provide each other the emotional support and physical assistance necessary to avoid nursing home residence for many years. Just recently I had a telephone call from many states away from a member who had not been particularly concerned about this legislation because she had no desire for remarriage. However, she had just learned that she had cancer from which she could probably not be cured—but which at her age should not be terminal for a few years—and *now* she felt the need for the emotional support she could receive from the man she would like to marry but who could not possible afford to support her—and her illness. We believe passage of such legislation would not result in a rush to the altar.

Thank you for your consideration of some of these major concerns of those directly affected by the DIC program. We have every confidence that the members of this distinguished Committee will continue to provide the leadership necessary to preserve the nation's responsibility to those who have made it possible for us all to live in freedom.

This completes my testimony, and I will be pleased to answer any questions directed to me. Thank you.

Statement of John F. Heilman, National Legislative Director, Disabled American Veterans

Mr. Chairman and Members of the Subcommittee: On behalf of the over one million members of the Disabled American Veterans and its Ladies Auxiliary, may I say that we deeply appreciate being given this opportunity to present our views on legislation relating to the service-connected disability and death compensation programs of the Veterans Administration.

H.R. 1538

Mr. Chairman, the provisions of H.R. 1538—introduced in the House by yourself and cosponsored by Full Committee Chairman Montgomery, Ranking Minority Member John Paul Hammerschmidt and Representative Solomon—would authorize a 4.1% across-the-board increase in basic disability compensation and DIC (service-connected death) benefit rates. This same percentage rate of increase would also be extended to the dependency allowances and, with one exception, to the special statutory awards and ratings that apply to the Compensation and DIC Programs, as well as to the VA's Annual Clothing Allowance, payable to certain service-connected veterans whose prosthetic or orthopedic devices cause unusual damage to clothing.

The proposed increases carry an effective date of December 1, 1985 and would require approximately $342 million in new Budget Authority and $285 million in Budget Outlays during Fiscal Year 1986.

Put in more meaningful terms, Mr. Chairman, the benefit increases would range from an additional $36.00 per year ($3.00 monthly) for a veteran with a 10% service-connected disability to $636.00 more per year ($53.00 monthly) for a veteran who is determined to be 100% totally and permanently disabled due to a service-connected disability.

Mr. Chairman, in any consideration of an increase in VA disability and death compensation payments, it is important to recall the principle upon which these programs were established:

Disability compensation paid to veterans attempts to represent, to the most practical degree possible, the average impairment in earnings capacity caused by service-connected disability. DIC benefits, on the other hand, are intended to provide a measure of financial security to surviving spouses and children of veterans whose deaths are attributable to a service-connected disability.

Over the years, this Subcommittee has been most diligent in its efforts to assure that the purchasing power of these benefits keeps pace with our society's rising cost of goods and services. The most recent adjustment of these rates authorized by Public Law 98-543 represented the 11th consecutive year that your Subcommittee has taken action on this most important issue.

Mr. Chairman, in examination of recent and projected inflationary growth, it is appropriate to note that while the most recent compensation/DIC adjustment authorized by Public Law 98-543 was 3.2%, VA nonservice-connected pension and death pension recipients and social security beneficiaries received a 3.5% benefit hike. Also, the actual rate of inflationary growth experienced in calendar year 1984 was 4%. These factors, combined with the advancement in the Consumer Price Index that has occurred and will occur during the remaining months of 1985, certainly justifies the proposed 4.1% increase contained in the pending bill.

I do wish to make special note of the fact that in its provisions, H.R. 1538 does not increase the "k" award set forth in Section 314(k), Title 38 USC. This is a special monthly benefit—presently $62.00—paid in addition to the basic rates of compensation of certain veterans who have incurred a service-connected loss or loss of use of a single extremity or certain other body organs and functions.

This particular award has not always been included in prior compensation bills and was last increased to its present amount by Public Law 96-128, approved November, 1979. We therefore ask the Subcommittee to include the "k" award in any compensation bill that it may recommend to the floor of the House.

Mr. Chairman, subject to our views as cited above, we urge favorable consideration of the pending measure.

VETERANS ADMINISTRATION "DRAFT BILL"

Mr. Chairman, the Veterans Administration has proposed its own Disability Compensation/DIC increase legislation via a draft bill.

Entitled, The Veterans Disability Compensation and Survivors Benefits Amendments of 1985, Title I of the VA measure proposes, effective December 1, 1985, an identical (to H.R. 1538) adjustment—4.1%—in Disability Compensation/DIC benefit rates.

We note, however, that unlike H.R. 1538, the VA's measure proposes that odd amounts resulting from computations of the proposed 4.1% increase be "rounded down" to the nearest whole dollar. We prefer the long-standing approach taken by the Subcommittee in H.R. 1538—rounding odd amounts either "up" or "down," as appropriate, to the nearest whole dollar.

Titles II and III of the Administration's draft proposal contain the following additional provisions:

Section 201 of the bill, through appropriate amendment of Section 3012(b), Title 38 USC, proposes a modification in the effective date for a reduction or discontinuance of disability compensation, pension or Dependency and Indemnity Compensation that is based upon school attendance of a payee or a payee's dependent child.

Under current law, such reductions or discontinuances occur effective the last day of the month in which such school attendance is discontinued. The proposed change would state that such reductions or discontinuances shall occur effective the day following the last date of actual school attendance. We note this proposed change would conform to current law for discontinuances of benefits for or on behalf of a child upon attainment of an 18th birthday.

Section 202 of the draft measure, through appropriate amendment of Section 101, Title 38 USC, proposes to amend the definition of "active duty for training" in order to permit the full-time operational duty performed by National Guard and Air National Guard personnel to be regarded as "active duty" for Title 38 benefit purposes.

Mr. Chairman, as we understand it, the term "active duty for training," though it does qualify guard personnel for VA disability compensation benefits should they become disabled as a result of such training, does not now apply to other Title 38 benefits, primarily home loan guaranty entitlement and health care services on a nonservice-connected basis. The proposed changes would so qualify such guard personnel.

Section 203 of the draft bill, through amendment of Section 101(4)(B)(i), of Title 38 USC, proposes to change current law as it applies to the criteria governing recognition of a *foreign* adoption (of a child) for VA benefits purposes.

Specifically, the proposal would provide that a child adopted under laws governed by a foreign jurisdiction could not be considered the legally adopted child of a veteran for purposes of benefit eligibility under Title 38 USC, unless the adoption occurred prior to the date of any disability compensation or pension entitlement established by the veteran. This change would only apply to an adoption finalized under laws of a jurisdiction other than a state, territory or possession of the United States, the District of Columbia, Puerto Rico or the Northern Mariana Islands, and only when the adoptee resides in a foreign jurisdiction.

Section 204 of the VA's measure, through appropriate amendment of Section 360, Title 38 USC, proposes to extend the principle of "paired organ involvement"—whereby certain veterans service-connected for a disability affecting a single eye, ear or kidney may receive additional benefits if they also suffer the nonservice-connected impairment of the remaining eye, ear or kidney—to include certain disabilities of the lung.

Finally, Section 301 of the draft measure, through appropriate amendment of Section 230(b), of Title 38 USC, proposes to extend the authority of the Administrator of Veterans Affairs to maintain a Regional Office in the Republic of the Philippines until September 30, 1988 (current authority to do so expires effective September 30, 1985).

Mr. Chairman, with one exception, the Disabled American Veterans has no official position with respect to the above cited provisions of Titles II and III of the VA's draft bill. We do wish to comment on the proposal contained in Section 204 of the VA bill and our views are as follows:

As indicated earlier, Section 204 proposes to add certain disabilities of the lung to the concept of "paired organ involvement" as now embodied in Section 360, Title 38 USC.

Mr. Chairman, though the Disabled American Veterans does not have a specific National Convention mandate on this particular issue, by authority of our organization's Constitution and By-laws which requires the DAV to "advance the interest and work for the betterment of all wounded, gassed, injured and disabled veterans," I can inform you that we do support this liberalization of law.

In fact, as you consider the VA's proposal, we urge that the Subcommittee also consider including the loss of "paired extremities" for coverage under Section 360.

Before proceeding further, Mr. Chairman, perhaps a brief history of Section 360 is in order to more fully acquaint the Subcommittee with the concept of paired organ involvement and functional loss as it now applies to the disabilities of loss of eyesight, kidney function and hearing.

Public Law 87-610, enacted August 28, 1962, provided the original statutory authority for the paired organ concept. At that time, it was recognized that a veteran who loses an eye or a kidney as a result of military service, and who subsequently suffers the nonservice-connected loss of the second eye or kidney, does, in fact, have a total loss of function that would not exist were it not for the original service-connected disability. Therefore, it was justly determined that our government has a moral responsibility to compensate the veteran for that total loss, that is, to provide a rate of disability compensation payments commensurate with the amount that would apply if both disabilities were originally service-connected.

At the time the original law was being considered by the Congress, the Veterans Administration strongly supported placing Section 360 in the statute books. In fact, it was the VA's suggestion that the loss of a kidney should be included in the original bill, which, when introduced, applied only to blindness.

In 1965, through the enactment of Public Law 88-311, the principle of paired organ involvement was extended to include the disability of total deafness. The VA also supported this liberalization, stating to the Congress:

> this proposal recognizes the additional disability attendant on a nonservice-connected loss of function of a second paired organ . . . We do not believe, in light of this fact, that the proposal constitutes an unreasonable liberalization of existing law. . . .

Mr. Chairman, the VA's pending proposal is to apply Section 360 in those cases where a veteran has incurred a 50% or more service-connected condition in the remaining lung, which, in combination with the service-connected lung, is totally disabling. Given the background of the statute as described above, the VA's proposal can be viewed as a logical, justifiable extension of current law. As indicated earlier, the DAV believes Section 360 should also apply to paired extremities—those cases where a veteran is service-connected for the loss or loss of use of a single arm or leg and subsequently incurs the nonservice-connected loss or loss of use of the remaining paired extremity.

Mr. Chairman, it is certainly pertinent to mention that this Subcommittee—indeed, the full Veterans Affairs Committee and the entire membership of House—has given prior, favorable consideration to this issue.

In May of 1977 (First Session of the 95th Congress), acting on the recommendation of the Veterans Affairs Committee, the Full House gave overwhelming approval to H.R. 6501, a measure that proposed to add the loss of paired extremities for coverage under Section 360. Unfortunately, due to VA opposition and Senate insistence upon an alternative approach to this issue (which was later placed in Title 38—Section 314(t)), H.R. 6501 did not receive full Congressional approval.

Obviously, Mr. Chairman, the VA's current initiative to place disabilities of the lung in Section 360 represents an admission on their part that the concept of paired organ involvement and functional loss is in need of further liberalization.

We agree.

Mr. Chairman, together with disabilities of the lungs as specified by the VA, we urge the Subcommittee to favorably consider amending Section 360 to include the loss or loss of use of paired extremities. If the Subcommittee should agree, we further recommend that such a modification of law be accompanied by the simultaneous repeal of the language now contained in Section 314(t), Title 38 USC—that portion of law which presently addresses (we believe, inadequately) the issue of paired extremity losses.

I can inform you, Mr. Chairman, that such a liberalization of law would require insignificant federal expenditures. Since the current Section 314(t) award was created in 1978, only 64 veterans have established entitlement to additional compensation benefits due to paired extremity losses.

H.R. 1537

The bill H.R. 1537, which was introduced by yourself, Mr. Chairman, proposes, through appropriate amendment of Section 411(a), Title 38 USC, to provide VA Dependency and Indemnity Compensation (DIC) benefits to the surviving spouse of a Commandant of The Coast Guard at the same rate that is now provided to the surviving spouses of other deceased Chiefs of the uniformed services (Army, Navy, Air Force, Marine Corps).

Mr. Chairman, the Disabled American Veterans has no official position on this measure.

H.R. 1568

The measure H.R. 1568, which was introduced in the House by Mr. Leath of Texas, proposes, through appropriate amendment of Section 230(a), Title 38 USC, to require that the Veterans Administration shall maintain a Regional Office in each state of these United States.

Mr. Chairman, your distinguished colleague and fellow member of the Veterans Affairs Committee, Mr. Leath, has certainly made no secret as to his reasons for authoring this legislation.

In his words, H.R. 1568 would: . . . end once and for all the ridiculous proposals emanating from the Office of Management and Budget (OMB) to strip from Veterans Administration Regional Offices throughout the country their major adjudication functions and centralize these functions into three locations.

Mr. Chairman, it is indeed a sad state of affairs that persistent, unwise and unjustified efforts on the part of OMB to emasculate VA Regional Offices has necessitated this type of legislative response.

VA Regional Office consolidation was proposed by OMB four years ago and was flatly rejected by the Congress at that time, being recognized as an anti-Agency, anti-veteran proposal that would disrupt efficient delivery of benefits and services, destroy the due process rights of VA claimants and bring total disarray to the VA benefits system.

Indeed, the Congress responded to OMB's thinly disguised attempt to dismantle the VA through administrative action by statutorily requiring that, before any

major reorganization of VA offices of functions can take place, the Administrator must first submit to the Congress, concurrently with such a proposal, a detailed plan and justification for such reorganization.

Yet, as stated above, OMB persists.

In the current Fiscal Year 1986 Budget Request, consolidation of major VA Regional Office functions is again proposed and the Agency, under obvious duress from OMB, is proceeding on the assumption that such reorganization will occur (witness the Agency's recent submission of a reorganization plan and justifications that are so clearly lacking and not in compliance with the above cited law).

Clearly, Mr. Chairman, the integrity and existence of our VA Regional Office system is in need of further protection. We therefore urge favorable action on H.R. 1568 by the Subcommittee.

SGLI AND VGLI LEGISLATION (DRAFT BILL)

Included in today's hearing agenda, Mr. Chairman, is a draft measure, soon to be introduced in the House by Full Committee Chairman Montgomery. The measure, through appropriate amendment of Sections 767 and 777 of Title 38, USC, proposes to: 1) increase from $35,000 to $50,000 the maximum amount of life insurance coverage provided under the Servicemen's And Veterans Group Life Insurance programs (SGLI and VGLI), and 2) to extend eligibility under the VGLI program to members of the Individual Ready Reserve and the Inactive National Guard.

Mr. Chairman, the DAV has no official position on this proposal.

H.R. 85

Mr. Chairman, the bill H.R. 85 was introduced in the Congress at the request of the Disabled American Veteran by Full Committee Chairman Montgomery and Ranking Minority Member Hammerschmidt and we deeply appreciate the fact that it has been placed on today's hearing agenda.

The measure is in direct response to a mandate that has been approved by the delegates to the DAV's most recent National Convention (and several prior National Conventions) which calls for the establishment of a more equitable formula on which to base payments under the Veterans Administration's service-connected death benefit program.

Mr. Chairman, as you and the Subcommittee are aware, a VA service-connected death benefit—Dependency and Indemnity Compensation (DIC)—is paid to an eligible surviving spouse if the veteran's death was not the result of misconduct and if it was attributable to a service-connected disability.

The concept of service-connected death benefits for survivors of American military personnel is as old as our country—indeed, older, for such payments were in existence in colonial times some 100 years before the Revolutionary War. And while it is not my intention to delve into the history of these benefit payments during today's hearing, I have provided, as an addendum to my statement, a brief historical perspective which I believe the Subcommittee will find useful.

Mr. Chairman, under present law (Section 411, Title 38 USC) DIC monthly rates are based upon the military rank of a serviceperson at time of death, if death occurred while on active duty, or the rank of a serviceperson at time of military discharge, if death occurred subsequent to active duty.

There are at present some 23 separate and distinct DIC rates under the formula which governs payments. They range from a low of $476.00 per month for the widow of a Private (pay grade E–1), to $1,217.00 per month for a widow of a four star General/Admiral (pay grade O–10). (Two additional higher payments are authorized in cases where the veteran served as the senior noncommissioned officer of any one of the uniformed services, or if the veteran occupied the top post in the Army, Navy, Air Force or Marine Corps.)

Mr. Chairman, without going into great detail, I believe that it can be generally stated that, aside from the obvious moral obligation, the purpose of DIC payments to survivors is twofold: First, to provide a measure of financial security to survivors in view of the service related death of the "bread winner" head of household and secondly, to provide such payments commensurate with the "life style" or "standard of living" of the family itself.

Having stated this, I wish to direct your attention to a basic flaw of the current formula which, we believe, provides discriminatory payments to a majority of widows presently on the rolls.

In terms of post-service deaths, it seems reasonable to state the severity of service-connected disabilities that have been carried throughout a lifetime do have an influence on family income and the size of estates left by deceased veterans. If this is so,

then we believe the amount of DIC extended to widows should be related to the severity of disability at time of death. Under the current rank based formula, the percentage of service-connected disability at time of death has no bearing whatsoever on benefit payments.

Addressing this post-service death inequity, which, as stated above, applies to a majority of DIC widows, the DAV has devised a modification of the current formula as specified in the pending bill.

Under the provisions of H.R. 85, the current rank based formula for in-service deaths would be essentially kept in place (our bill would provide an additional "add-on," based upon length of service). For post-service deaths, Mr. Chairman, the measure would authorize that DIC payments be tied to the percentage of service-connected disability (of the veteran) at time of death—the greater the degree of disability, the greater the monthly benefit to the widow.

Under the terms of the bill, no change would be made in the present DIC rate for minor children or children alone. Also, the post-service death formula would not apply to "temporary" disability ratings. DIC beneficiaries on the rolls prior to the effective date of the bill would be "grandfathered" to the current formula, with a one time, irrevocable option to elect to receive benefits under the new plan. All DIC awards adjudicated by the VA after the effective date of the bill would only be paid under the new proposal.

Mr. Chairman, we realize that change in the current DIC program is a complicated issue, one that is fraught with emotion. We also realize that other veteran and military widow organizations have proposals and suggestions of their own as to how necessary program modifications should be achieved. And while we believe that our proposal is one that first guarantees protection of existing benefit levels to current beneficiaries and, at the same time, provides to the greatest number of present and future DIC recipients a more equitable distribution of payments, the DAV is certainly willing to consider the ideas and options of all other interested parties.

Mr. Chairman, we urge the Subcommittee to give serious, favorable consideration to reform of the current DIC program as proposed by the pending bill.

This completes my statement, Mr. Chairman. Again, I wish to thank you and the members of the Subcommittee for extending us the opportunity to present our views here today.

HISTORICAL PERSPECTIVE OF SERVICE-CONNECTED DEATH BENEFITS

(Source—House Committee Print #80, 95th Congress, 2nd Session, VA Evaluation of Benefits Under The DIC Program.)

Veterans' benefits in U.S. began in colonial times. In the 1670s the colonial legislatures of Maryland and Virginia passed laws authorizing "death pensions" for widows of militiamen who died fighting Indians. By the time of the Revolutionary War, a colonial system of veterans' and widows' benefits was in place.

By virtue of a 1780 Act on the part of the Continental Congress, widows' death benefits based on the pay/rank of officers (not enlisted men) were authorized. It was not until 1836, by Act of U.S. Congress, that death benefits were authorized for widows of enlisted personnel also. The payments were still based on rank/pay.

The next major legislation occurred in 1861, when a law was passed authorizing widows of those killed in Civil War (Union) to receive a $100.00 lump sum payment. In 1862 the one lump sum payment was done away with and a law was passed (known as the "General Law") authorizing payments (based on pay/rank) ranging from $8.00 per month for widows of a private, to $30.00 per month for Lieutenant Colonels and above. This same law also (for the first time) authorized death benefits for widows of veterans who died from service-connected disabilities after discharge from service. In 1866 a law was passed authorizing $2.00 per month additional benefits for dependent children under age 16. The "General Law" remained in effect, more or less, through the Indian Wars, Spanish American War and Mexican Border Conflict.

World War I saw the War Risk Insurance Act of 1917 passed. A debate occurred during consideration of this legislation concerning whether or not widows' death benefits should still be based on rank/pay or be extended in a flat rate. The flat rate concept won and the War Risk Insurance Act authorized a flat rate of $30.00 per month for all widows whose husbands died in service (or post service from service-connected disabilities).

One of the Economy Acts in the early 1930s made a distinction between a wartime service-connected death and peace time service-connected death, authorizing a flat payment of $30.00 per month for a wartime service-connected death and a flat

payment of $22.00 per month for a peacetime service-connected death. In the late 1930s an "age factor" was added. This change (for wartime service-connected benefits) authorized $30.00 per month for widows under age 50, $35.00 per month for widows between age 50 and 64 and $40.00 per month for widows over age 65 (the peacetime payment was $22.00, $26.00 and $30.00). In 1940, the age factor was eliminated and flat rates of $75.00 per month for a wartime service-connected death and $60.00 per month for a peacetime service-connected death were authorized.

An Act in 1954 authorized payments of $87.00 per month for a wartime service-connected death and $69.60 per month for a peacetime service-connected death.

In 1957, The Congress enacted legislation authorizing the Dependency and Indemnity Compensation (DIC) Program as we call it today. This Act still retained the flat rate approach ($112.00 per month) but added an additional amount of 12% based on a formula involving military pay of the veteran and length of service. The formula was quite complicated and this fact, plus the military pay raises that occurred during the 1950s and the 1960s, led to over 220 separate DIC payments with a wide disparity in amounts authorized (widows of lower ranking enlisted received less proportionate COLA adjustments).

In 1969, by act of Congress, the military pay and length of service add-ons were eliminated and the present rank based formula was put in place.

STATEMENT OF RICHARD W. JOHNSON, JR., DIRECTOR OF LEGISLATIVE AFFAIRS

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to express the views of the more than 250,000 associated members of the Non Commissioned Officers Association of the USA. Under consideration by the committee today are five proposals. Three involve disability or dependency compensation programs. The fourth will, if passed, require the Veterans Administration to retain its current regional office structure. The fifth bill seeks to provide a much needed increase in the maximum coverage allowed in the Serviceman's Group Life Insurance program. NCOA will address each of these proposals in turn.

H.R. 1538

H.R. 1538 is the centerpiece proposal under consideration today. It proposes an average 4.1 percent cost-of-living increase in disability and dependency compensation payments effective December 1, 1985. NCOA fully and strongly supports this measure.

Mr. Chairman, a 4.1 percent COLA increase is barely adequate to restore the lost purchasing power of these important benefits. This increase is absolutely necessary if the value of these compensation programs is to be maintained.

NCOA is disturbed by the recent trend toward capping cost-of-living increases in federal program benefits without consideration to the distinct differences between those benefits.

The Association does not believe it is necessary or reasonable to cap COLA's in all federal programs as a matter of policy. Disability Compensation and Dependency and Indemnity Compensation are unique in they are payments based on injuries or death incurred in service to the United States. This unique quality is not shared in other federal payments or even veterans pensions.

Hopefully Congress will consider the programs and their intent in this context as it considers the imposition of caps on federal benefit programs.

H.R. 85

For many years NCOA has pleaded with this committee and Congress to modify the Dependency and Indemnity Compensation program to more equitably compensate the surviviors of servicemembers and veterans who have died of service connected cause.

Briefly stated, the current program does not recognize the severity of disability in compensating post service deaths. It does not adequately recognize the years of service many have provided, or the years the veterans suffered from a disability. The current system is something of a travisty in that it provides the highest benefits to those who are statistically more capable of providing for themselves and have income from other sources.

Indeed, the current system makes payments on scale inverted to the need of survivors and their own ability to provide for themselves.

This system is the outgrowth of a rather aristocratic desire to "maintain the standard of living" enjoyed by a surviving spouse as stated repeatedly during debates on survivor compensation measures. More recently, a Senate sponsor of the

companion measure (S. 85), restated this theme which brings us to NCOA's comments on H.R. 85.

The bill would generally leave intact the compensation program for survivors of servicemembers who die while on active duty adding only a small additional payment for years of service. However, it suggests major modifications in the compensation for survivors of a veteran who dies after leaving service. In this regard, the bill proposes survivor compensation based on the degree of disability suffered by the veterans prior to his death.

Adoption of H.R. 85 may solve one set of problems connected with DIC but it creates an entirely new set of problems and perpetuates some others. Those who will benefit most are the survivors of veterans who were substantially disabled but did not achieve advanced service grades. At the same time, the survivors of many disabled officers and senior noncommissioned officers will be hurt by the proposal. For example, in a tragic accident at Camp Pendleton, California, a Marine private first class critically wounded himself and killed a sergent during a grenade training accident. Under the terms of H.R. 85, the survivor of the PFC who was subsequently discharged and died in the VA hospital would receive greater compensation than the sergeant's survivors. In fact, under H.R. 85, the survivor of the PFC would receive more in survivor benefits than the servicemember received in regular compensation.

While the current system does not fairly compensate the survivors of individuals who have endured many years of disability, H.R. 85 will not fairly compensate people who die on active duty or from a minimally disabling but nevertheless fatal malady such as hyertension. In fact, the survivors of some officers and more senior noncommissioned and petty officers would lose money if death occurs from some minor compensable condition after leaving service.

Under the current program, the average payment to an officer's survivor is $715.85. Enlisted survivors receive an average payment of $528.31. The overall average payment is $563.88. Under the proposal, average payments to the survivors of enlisted personnel would rise slightly. However, no greater equity in the distribution of benefits can be assumed.

If, for example, an officer dies on active duty, his survivor will be compensated as though he had been 80% or more disabled. An active duty enlisted servicemember's survivor will receive compensation on a more diverse scale. A private's spouse will receive compensation at a level comparable to a 10% disability. The survivor of a sergeant will receive compensation at a level commensurate with a disability of 50%.

Mr. Chairman, enactment of H.R. 85 is estimated to cost between $325 million and $250 million. Yet, for the money, the proposal does not substantially improve the program.

Since 1974 when NCOA first brought to the attention of this committee the inadequacies of the DIC program, a number of possible remedies have been suggested. None has captured widespread support. NCOA continues to believe a single basic benefit provided to all spouses is the most equitable solution. By distributing benefits in this manner the nation recognizes the service and sacrifice of all veterans equally while allowing the social security system and private insurers to compensate survivors on income potential and other variables which are not germane to veterans compensation. Hopefully, the committee will continue to consider this alternative.

H.R. 1537

The final bill related to the Dependency and Indemnity Compensation seeks to provide the surviving spouse of the Commandant of the Coast Guard a survivor benefit comparable to the special rate of compensation paid to the surviving spouse of other individuals who have served as the chief of their respective service. The additional compensation has previously been denied because the Commandant of the Coast Guard was not compensated at the same level as the chiefs of staff of the other services. However, since the first introduction of this proposal as H.R. 4990, last year, the compensation of the Coast Guard Commandant has been adjusted.

Normally, the Non Commissioned Officers Association would not comment on a bill in which our members have no vested interest. However, in this instance, equity dictates that this change be made. NCOA is pleased to offer its support to the proposal.

H.R. 1568

NCOA strongly support, passage of H.R. 1568 requiring the Administrator of Veterans Affairs to maintain a Regional Office in each state for the purpose of receiving and adjudicating claims for various veterans benefits.

Mr. Chairman, the regional office concept was designed to provide veterans ready access to claims adjudication and benefit assistance. The concept goes far beyond having benefit counsellors available to advise on programs and assist in the preparation of forms. It allows a veteran personal access to the federal employees who will make decisions substantially affecting the Veteran's future.

If the system is modified or consolidated, counsellors and veterans will not have reasonable access to needed records or the people responsible for claims processing. It will become impossible for counsellors to answer the most simple questions without making a long distance telephone call or writing a letter. The ability to "walk-through" claims of timely importance will be lost. This, in turn, means that veterans or survivors may not be able to satisfy their urgent financial needs. Such a consolidation will also abridge the right of veterans to personally appeal their claims.

Twice in recent years the Administration has proposed the consolidation of Regional Office functions into centralized locations. There is little doubt that such consolidation would produce some cost savings. Yet such consolidation would so modify the scope of services provided by the VA that it would substantially affect the agency's ability to perform its mission.

Mr. Chairman, in testimony on the budget proposal earlier this year, NCOA recommended legislation to permanently preclude consolidation of regional offices. The Association is pleased to endorse this measure and recommends its adoption.

H.R. 1709

The maximum amount of insurance coverage available to active duty servicemembers under the Servicemen's Group Life Insurance (SGLI) program will be increased from $35,000 to $50,000 if H.R. 1709 is adopted. For several years NCOA has been concerned about the adequacy of SGLI coverage limits. NCOA continues to support an increase substantially larger than the one proposed in H.R. 1709 which will still limit military personnel, regardless of grade, to the purchase of sponsored insurance in an amount lower than is available to the most junior federal civilian worker. In fact, the most junior civilian worker (GS–1) can purchase nearly $50,000 in basic life insurance and up to five times his or her annual salary in optional coverage. The Association believes it is shameful to allow the continued existence of this disparity between military and civilian workers, particularly since Congress so frequently seizes the opportunity to compare the apple and orange benefits of military and civilian personnel. NCOA supports the bill but encourages the committee to raise the maximum amount to at least $75,000.

CONCLUSION

In summary, NCOA fully supports the 4.1 percent cost-of-living increase proposed in H.R. 1538 and the adoption of H.R. 1537 which will provide an equitable change in the DIC program. NCOA does not support H.R. 85, but we do commend its authors and sponsors for the efforts they have made in seeking a solution to the survivor benefits problem. NCOA strongly supports the other bills under consideration and recommends their early passage.

Thank you.

STATEMENT OF BOB MORAN, ASSOCIATE LEGISLATIVE DIRECTOR, PARALYZED VETERANS OF AMERICA

Mr. Chairman and members of the Subcommittee, it is a privilege and pleasure for me to appear here today and present the views and concerns of Paralyzed Veterans of America on the Compensation and Dependency and Indemnity Compensation (DIC) programs administered by the Veterans Administration and the issue of VA Regional Office locations. I am Bob Moran, Associated Legislative Director of Paralyzed Veterans of America.

Initially, I want to extend PVA's appreciation to you, Mr. Chairman and Members of this Subcommittee, for your onging efforts to improve the effectiveness of these most important programs that directly affect our members and their dependents, and for allowing PVA to testify and work with you and your competent and professional staff in this important endeavor.

Before addressing the various legislative proposals being considered here today, I would like to reflect a moment on just one of the many accomplishments of last

year. The final session of the 98th Congress was, thanks to the efforts of this Subcommittee, very positive in regards to meeting the needs of this nation's 28 million veterans and their 54 million dependents.

The sucessful passage of Public Law 98–654, the "Veterans' Benefits Improvement Act of 1984," contained many important provisions, most notably, a timely adjustment to the rates of compensation for veterans with service-connected disabilities, and for DIC payable to surviving spouses and children of deceased veterans.

And, now Mr. Chairman to the business at hand. Our testimony today will be limited to three of the six bills being addressed here today, specifically H.R. 1538, H.R. 85, and H.R. 1568.

VETERANS' ADMINISTRATION COMPENSATION PROGRAMS H.R. 1538

In our examination of the veterans' compensation and DIC programs we will discuss the provisions of H.R. 1538, the proposed "Veterans' Compensation Rate Amendments of 1985," and H.R. 85, which revises the formula for the payment of DIC to surviving spouses.

PVA would like to begin by briefly examining H.R. 1538, a bill which provides for a 4.1 percent increase in the rates of compensation for veterans with service-connected disabilities and in the rates of DIC for their survivors.

PVA has always supported a viable compensation program to care for service-connected disabled veterans and their families. Congress created the compensation program to provide for the loss of earning capacity, when the diminished capacity results from injury or illness incurred while in service to the nation.

Compensation is for many of PVA's members extremely important, because for many catastrophically disabled veterans, it remains their primary source of income. Therefore, service-connected disability compensation and DIC should be adjusted each year to offset erosion caused by inflation.

It is PVA's position that annual increases in compensation rates must be commensurate with increases in the Consumer Price Index (CPI). This year the Senate Committee on Veterans' Affairs is recommending an increase of 3.7 percent based on their economic projections, while this Subcommittee with the full House Committee on Veterans' Affairs is recommending a 4.1 percent increase. We only ask that during your considerations in determining which of the two proposed rates of increase is most correct, that the most current economic conditions be assessed and that veterans and their families be protected from the destructive effects of inflation.

We would also remind each of you of the proposal that has come out of the Senate Budget Committee. I refer to the proposal to limit Fiscal Year 1986 increases to only needs based entitlement programs such as, Supplemental Security Income, food stamp benefits, and pensions to veterans with nonservice-connected disabilities. Additionally, there has been a proposal brought forth in the Senate, and endorsed by the Administration, that would limit cost-of-living increases to a minimum of 2 percent, with a maximum increase of annual CPI minus 2 percent.

PVA does not oppose per se the limiting of cost-of-living increases so long as everyone across the board is treated the same, but we strongly oppose granting increases in other deserving categories when they are being denied to veterans who have suffered service-connected disabilities.

DEPENDENCY AND INDEMNITY COMPENSATION H.R. 85

In regard to the DIC program, which cares for the service-connected disabled veterans' survivors, we remain discontented by the awarding of DIC benefits based on military pay grade rather than on the veterans' degree of disability. PVA has addressed this inequity in the DIC program for years. Under existing law, the survivor receives DIC benefits based on the veteran's military pay grade and not on his degree of disability.

PVA understands the rationale for awarding benefits based on military pay grade when a serviceman dies while in active military service. However, when service-connected disabled veterans die from service-connected causes years after termination of their military service, we believe, and have testified on numerous occasions, that there is little or no correlation for using military pay grade as the basis for computing the DIC benefit for a surviving spouse.

Congress has recognized the advancing age of millions of veterans, as evidenced by efforts to improve the VA' geriatrics program, and a corollary of these demographics is that certain older spouses of veterans are becoming increasingly reliant on survivors' benefits for support.

Very often the surviving spouse of a severely disabled veteran has provided extensive care to the veteran because of his service-connected disability. It is well recognized that the cost of continuous attendant care can greatly exceed the maximum aid and attendance allowance (A&A) given for service-connected disabilities. The result is that despite a helpful A&A allowance, the spouses of service-connected disabled veterans often must provide daily time-consuming services which these veterans cannot obtain or provide for themselves. Spouses' services produce great savings for the government in situations where, without their assistance, verterans otherwise would require institutional care. This savings, reflected by in-home care provided by the spouse, cannot be overemphasized, especially when considering the astronomical cost of medical care today.

Upon becoming widowed, a surviving spouse who receives DIC may be willing to seek employment, but in many cases she would not have marketable skills due to the constant care that she provided the veteran until his death. In addition, the spouse often must seek employment at an unrealistic and most difficult time in life, a time when others of comparable age are beginning their retirement.

Most veterans, especially those who served in wartime, were not careerists but were citizen soldiers who simply answered their nation's call to duty. Consequently, the majority served in the lower military pay grades, where debilitating injuries were most prevalent. Basing DIC on military pay grade, not on the degree of disability, therefore leaves many surviving spouses with inadequate benefits after the death of the veteran. This happens despite the service rendered to the nation, both by the veteran and by the surviving spouse who had assisted the veteran in living a meaningful life, free from costly institutions.

We commend the Chairman of the Committee on Veterans' Affairs, the Honorable G.V. "Sonny" Montgomery, and the Ranking Minority Member, the Honorable John Paul Hammerschmidt, for introducing the bill H.R. 85. PVA agrees with the concept for the need to restructure the formula for payment of DIC, however, it is PVA's belief that this legislation does not go far enough in adequately providing for those spouses of catastrophically disabled veterans. PVA proposes that the formula for computing surviving spouses DIC rates be established at 75 percent of the deceased veteran's monthly compensation benefit, excluding the portion paid for the veteran's aid and attendance. PVA must emphasize that present beneficiaries should be "grandfathered" under the current law, if it is not to their benefit to elect DIC payments under a new rate structure.

VA REGIONAL OFFICES H.R. 1568

PVA strongly opposed the Administration's proposal to consolidate into three regional centers certain administrative functions of VA Regional Office, and we must voice our concern over legislation which mandates that each state have a VA Regional Office.

Presently each state has at least one VA Regional Office, with several states having multiple facilities. This pattern of placement of VA Regional Offices has evolved on the basis of need to service the existing veteran population. VA Regional Offices should be dictated by veteran demographics and this approach in establishing VA Regional Offices should be the primary factor in determining their geographic location.

Based upon this premise of needs placement, PVA would view legislation that would mandate that each state have its own VA Regional Office as unnecessary and restrictive. But, if legislation is necessary to protect the integrity of the VA Regional Office structure from future Administration consolidation efforts, then PVA would support the concept of such legislation as H.R. 1568, introduced by Representative Leath.

CONCLUSION

Mr. Chairman and Members of the Subcommittee, on behalf of the members of Paralyzed Veterans of America, I appreciate the time and attention given to our statement by the Members and staff of this Subcommittee. We are very pleased to give our full support to the bill H.R. 1538, the "Veterans' Compensation Rate Amendments of 1985." At this time it appears that the suggested increase in compensation and DIC benefits of 4.1 percent is quite reasonable. PVA would accept a delay of increases in compensation and DIC benefits so long as all the other beneficiaries of federal programs are asked to make the same sacrifice for the good of the country.

In reference to H.R. 85, which we discussed and examined in our testimony, the restructuring of rate of payment within the DIC program. PVA believes that the

DIC program should be restructured to more equitably compensate surviving spouses of service-connected disabled veterans. The present system of basing DIC benefits on veterans' military pay grades does not take into consideration the sacrifices made by the spouses of veterans who have served in the lower military pay grades. Therefore, PVA supports legislation to restructure the formula for payment of DIC, and proposes the rate be established at 75 percent of a veteran's monthly compensation benefit.

PVA would like to thank the Members and staff of this Subcommittee for allowing us to discuss these most important issues that are under consideration at this time. This concludes my statement Mr. Chairman, and I will be glad to answer any questions that I can.

STATEMENT OF COMMANDER JOHN F. WANAMAKER, UNITED STATES NAVY, RETIRED, DEPUTY DIRECTOR, LEGISLATIVE AFFAIRS, THE RETIRED OFFICERS ASSOCIATION

Mr. Chairman and members of the committee: I am Commander John Wanamaker, deputy director of legislative affairs of The Retired Officers Association, (TROA) which has its national headquarters at 201 North Washington Street, Alexandria, Virginia. Our association has a membership of over 340,000 retired, former and active duty officers of the seven uniformed services. Included in our membership are 42,300 widows of former members.

The committee has before it several bills relating to veterans' disability compensation and survivor's dependency and indemnity compensation (DIC). Before addressing the merits of these proposals, I would like to comment on the process of making adjustments to these programs. The congress has traditionally acted periodically to provide cost-of-living increases in compensation benefits, in order to assure that those benefits keep pace with inflation. Considerable discussion has taken place, and continues within this house, to reduce budget outlays by imposing an across the board "freeze" on all entitlement programs during FY 1986. In the other body, there appears to be a leadership agreement to limit entitlement programs to a CPI-2 for the next three years. It would appear that decisions on levels of compensation for veterans and their survivors are being arbitrarily decided outside the oversight of this committee and without regard to the basic principles upon which these programs are established.

The last cost of living adjustments to these programs were effective on 1 December 1984. This committee must resist efforts to cause an extended delay in the next adjustment. Inflation experienced since the last adjustment is running at an annual rate of approximately 4 percent. Assuming that a 4 percent inflation rate continues, disabled veterans and their survivors would experience a loss of 7.3 percent in the purchasing power of the V.A. compensation programs during that period. It is for this reason the members of our association strongly recommend that an interim adjustment be made during FY 1986.

H.R. 1538—would provide a 4.1 percent increase in the rates of disability compensation and of dependency and indemnity compensation (DIC) effective December 1, 1985. We support this bill, however, recommend that it be amended to include the provision of H.R. 480 and H.R. 1492.

H.R. 480—would provide that remarriage of the surviving spouse of a veteran after age 60 shall not result in termination of DIC benefits, thereby bringing the survivors annuity of title 38 in consonance with similar provision of title 42 (Social Security), title 10 (Military Survivor Benefit Annuitants), and title 5 (Civil Service Survivorship Annuitants.) I urge the subcommitte to favorably consider amending H.R. 1538 to include the provisions of H.R. 480.

H.R. 1492—would permit veterans who are eligible for military retired pay to receive compensation from the veterans' administration for a service-connected disability concurrently with military retired pay when such retired pay is based on length of service. We recommend that the provision of H.R. 1492 also be favorably considered as an amendment to H.R. 1538.

H.R. 85—would revise the formula for the payment of dependency and indemnity compensation (DIC) to certain survivors whose spouses died after leaving service. The DIC program has been established to replace family income lost due to the servicemenber's death and serves as a reparation for the death. The historical background for the payment of compensation to dependent survivors dates back to the act of August 24, 1780, granting the widow and children of any officer who died as a result of revolutionary war service half of the officers' pay. Ten years later, in 1790, the compensation was extended to the survivors of enlisted personnel and was later extended to include survivors of veterans of the War of 1812 and the Mexican War. Although many subsequent changes were made to the survivor's compensation laws,

without exception the rate schedule reflected a percentage of the servicemember's basic pay for the rank or grade at time of death. Over the years, attempts were made to interject a "flat rate" plus percentage of basic pay. This procedure was later discarded when the formula provided less than adequate benefits to widows of lower ranking members.

The current schedule for DIC replaces income in the range of over 50 percent for the survivors of junior enlisted men to less than 20 percent for the survivors of middle-grade enlisted men and officers. It is in this middle range of grade and rank that serious deficiencies currently exist in the DIC program. H.R. 85 does not address this problem. Further, the post service DIC provision of H.R. 85 would provide, under the most extreme case, a situation whereby a veteran may die of service connected disability but, based on a zero rating, his widow would receive at the most $575 per month by the post service DIC schedule while an individual may die of non-service connected causes and his widow could receive up to $850 per month. I believe that these extreme instances point out that the provisions of H.R. 85 completely lose sight of the purpose of the DIC program and therefore we oppose this measure. At the same time we ask that there be a study conducted to compare the veteran's dependency and indemnity compensation (DIC) program with that of the ERISA requirement for pre-retirement replacement income for survivors in the private sector. Also, the study should compare income replacement levels provided Federal civilian employee's survivors. I'm certain that such a comparison study will point out the shortfalls in the current DIC program.

H.R. 1537 would provide that DIC be payable to the surviving spouse of a commandant of the coast guard who dies of a service-connected disability at the same rate as that provided the surviving spouses of members of the joint chiefs of staff. We urge the committee to favorably consider this measure in conjunction with the FY 1986 veterans compensation bill.

H.R. 1790 would authorize the increase in the coverage provided by the serviceman's group life insurance (SGLI) from the current maximum level of $35,000 to the proposed $50,000. We strongly support this provision. I might point out that a recent study by the 5th quadrenntal review of military compensation recommended the maximum SGLI coverage be increased to the $50,000 level, with an additional $50,000 optional coverage to be made available.

H.R. 1790 also proposed changing the veterans group life insurance (VGLI) program from a limited five year term insurance program to a renewable five year term program for certain individual ready reservists (IRR) and for members of the inactive national guard. We recommend that the current VGLI program be retained and that should coverage be extended to these reserve groups, that it be incorporated within the framework of the SGLI program rather than a change to the VGLI program. One final word on the VGLI program: I urge the committee to authorize that premium payments for VGLI coverage be authorized through electronic payment from retired pay or any other VA compensation that the veteran may be receiving. I believe in the long-run this would be cost effective to the government and would also increase participation through the increased ease of premium payment.

H.R. 184 would provide that premiums of those aged 70 and over, participating in the NSLI program be waived. Currently the interest alone on the assets of the NSLI fund exceed the annual payment in claims. The outstanding insurance in force is approximately 21 billion dollars. The unobligated fund balance exceeds 9 billion and the interest received last year amounted to over $850 million while the claims were only $513 million. At this rate, I believe the fund would continue to grow in the near term and be sufficient to amortize the remaining insurance in force over the long term even if all premiums were stopped tomorrow. Last year dividend payments exceeded premiums earned by 237 million dollars. Think of the savings in cost of postage alone if the premiums were stopped now. The need to take in premiums and then pay out dividends each year could be terminated. I believe that consideration should be made to go beyond the provisions of H.R. 184 and apply a waiver of all future premiums.

This committee can take credit for the favorable actions taken last year when the premiums were capped at the age 70 level for renewals. If this committee should decide not to waive all premiums as is recommended, then as an alternative to H.R. 184, I suggest it explore the possibility to reduce the age each year, beginning at age 70 and over, terminate the payment of premiums each year for those in the highest age brackets until the premiums are phased out completely. (Ex: FY86—age 70 and over; FY87) age 68 and over; FY88—age 66 and over, etc.)

H.R. 180 would provide an annuity for veterans of WWI and their survivors. There are as of September 1984 approximately 300,000 veterans of WWI still living. Our nation owes a debt of gratitude for the service provided by these older veterans.

Many of the benefits which we have been discussing here today found their roots in proposals of those who served during WWI. It is therefore strongly urged that this subcommittee favorably consider adding the provisions of H.R. 180 to the current compensation bill under consideration. I might add that the mean age of these veterans is in excess of 89 years. We don't have much more time to pay our final thanks.

In closing, Mr. Chairman, I wish to make a final comment. Among proposals published by the Treasury Department under the heading of tax simplification is one calling for taxation of veterans's benefits. I know tax measures are not within the oversight of this committee, but I would hope that this committee insist that veteran's benefits continue to be excluded from consideration for taxation.

Thank you for allowing me this opportunity to express our views on the important matters currently under consideration. I will be happy to attempt to answer any questions.

TESTIMONY OF DAVID J. PASSAMANECK, LT. COL., USA, RET., NATIONAL LEGISLATIVE DIRECTOR, AMVETS

AMVETS is pleased to be afforded the opportunity to present our views regarding cost of living and other adjustments affecting the Veterans Administration compensation and insurance programs.

The President's proposal to increase compensation and DIC by 4.1 percent is a welcome recognition of the special place deservedly occupied by veterans and their dependents in the order of priorities for governmental funding, even during a time of fiscal restraint. We enthusiastically support the Administration's draft bill to accomplish this increase as well as the enactment of several useful administrative improvements to the compensation system and to the qualifying criteria for veterans entitlements under title 38 of the United States Code. We specifically endorse amendment of section 101(22) relating to the definition of "active duty for training" in order to permit the full-time operational duty performed by National Guard members to be considered "active duty" for title 38 purposes; amendment of section 101(4)(B) relating to foreign adoptions; amendment of section 360 of title 38 to extend the principle of "paired organ impairment" to certain lung disabilities to allow a total disability rating where the service connected rating for one lung is 50% or more; and extension of the Administrator's authority to operate a regional office in the Philippines. In this connection, we also support enactment of H.R. 1568, requiring the maintenance of a regional office in each state.

The recent, so-called compromise reached between the President and the majority leadership in the Senate, which would cut in half, if not eliminate a cost of living increase for compensation and DIC recipients, as well as other suggestions for across-the-board freezing of veterans entitlements along with other non-veteran programs, are completely unacceptable. As the general population did not share the risks or make the sacrifices of veterans and their families, there should not be an equal sharing of cuts in veterans and non-veteran programs.

AMVETS appreciates Chairman Montgomery's and Mr. Hammerschmidt's introduction of H.R. 85 to reform DIC. Although the bill eliminates ranks as a determinant of widows' compensation, the formula which replaces rank leaves much to be desired, not the least of which is its apparent failure to recognize that a disability which causes death should properly be rated at 100% in all cases. We therefore suggest that an equal, across-the-board payment might be more equitable and realistic than any variable formula. In any event, more study will be needed before we can improve the current system.

We do, of course, support the payment of DIC to the surviving spouse of the Commandant of the Coast Guard at the Joint Chiefs' rate.

Chairman Montgomery's draft bill to increase the maximum amount of serviceman's & Veterans' Group Life Insurance and extend coverage to the Reserve and National Guard is long overdue and should be enacted. It is a timely reflection of the cost of living increases since the $35,000 maximum was established.

As we have for many years, we urge the enactment of long overdue legislation such as H.R. 1366 to allow persons receiving military retired pay (other than disability retired pay) to receive concurrently pension or compensation. There is no reason why military retirees should be less entitled to VA compensation or pension than other veterans.

This concludes my testimony. I will respond to questions, if any.

STATEMENT OF JEAN ARTHURS, LEGISLATIVE DIRECTOR OF THE NATIONAL ASSOCIATION OF MILITARY WIDOWS

The Secretary of the Army stated: "When the government contracts for the serviceman, it really contracts for the entire family unit" as it includes all of the family in the adjusted lifestyle the 24-hour call, the 'perils and discomforts (with readinesses to serve anywhere, to go to hasardous places at a moment's notice."

To care for him who has borne the battle, and his widow, and his orphan A. Lincoln.

I am Jean Arthurs, president of the National Association of Military Widows and we thank you for allowing me to provide testimony here today. The members of this committee are to be commended for their continued concern for the individuals affected by this committee's decisions. I realize that over the years the work of this committee has benefited a great number of widows whose sponsors have served and died for our country. In comparison, we have many widows who served with their sponsors for twenty, thirty, and forty years, receive no pension or compensation, and as they age, are in dire circumstances.

Our association is an all-volunteer organization and our membership represents all ranks of career and non-career service widows of the seven uniformed services. Regular and Reserve. Our broad base has made us realize the need for equitable legislation for these fine women who have served our country so well.

We support H.R. 1538 to provide a 4.1 percent cost-of-living allowance for compensation and for dependency and indemnity compensation. According to the Veterans Administration study of 1978 the average military widow receiving DIC benefits is over 60 years of age, and for many, it is their only form of support.

H.R. 1537 to provide for the payment of DIC to the surviving spouse of a Commandant of the Coast Guard as provided to the surviving spouses of members of the members of the Joint Chiefs of Staff, we are in favor. Achieving equitable compensation for all Federal widows that is fair and just to all is our endeavor.

To require the Veterans Administration to maintain a Regional Office in each state (H.R. 1537) seems a necessity when consideration is given to the myriad of problems of administration which is one of the VA's most important missions.

H.R. 85 revises the formula for the computation of the dependency and indemnity compensation. First, of all, we wish to commend the Disabled American Veterans for their effort in taking the first step, long overdue, to correct the inequities of DIC compensation.

Our primary concern in the formula for the death-on-active-duty is why the group of widows whose sponsor served less than four years is not included in this table of increases. As widows who have survived the trauma of our sponsors' deaths on active duty, we can tell you it is a violent way to lose your loved one. It is unfair and unjust to discriminate among this category of widows, and all of the death-on-active-duty widows should be included.

Also, if the Federal commitment is to be fair and equitable, consideration should be given to equalizing the military, civil service, and foreign service widow compensation when a comparable active duty death is involved. Comparable worth is of the essence today and a worthy area to study it within is the Federal government widows compensation programs. A substantial difference in death compensation exists at every pay level between the DIC and FECA programs. Why does the DIC widow receive less compensation than the foreign service widow when the deaths are comparable. The military are paid and administered by the Department of Defense, a Federal agency, therefore, they are Federal employees in every sense of the Federal definition. Federal agencies-Civil Service, Foreign Service, the military all share the same paymaster, the United States Treasury.

The post-service death due to service-connected causes as related to H.R. 85 presents complex problems from the widows' point of view. It is well known that the cost of continuous attendant care by the widow can greatly exceed the maximum aid and attendance allowance for service-connected disabilities. In some cases our widows are left in large debt and physically and emotionally shattered. There are many less obvious factors that come to bear which are not covered in these hearing rooms.

We question why Representative Whitehurst's and Representative Roe's bills (H.R. 183 and H.R. 480, respectively) are not included on today's agenda of this hearing. These bills would allow the DIC widow to remarry after age 60 and retain the DIC compensation. Again, it is a matter of treating Federal widows equitably. Social Security, Retired Serviceman's Family Protection Plan, Military Survivor Benefit Plan, and the FECA programs allow the annuitant to retain the compensa-

tion or pension annuities when she remarries after age 60. So few have the opportunity to do so, the cost cannot be contributing factcr.

Conversely, the Military Survivor Benefit Plan, which may include the DIC compensation as an offset, upon remarriage of the annuitant after age 60 will restore the SBP benefit to the full 55 percent SBP on the loss of the DIC compensation. This further reduces the cost of the bills. In fairness, this oversight must be corrected.

The purpose of this hearing is to discuss issues relating to the compensation program. We wish to refer to the terminology used in Title 38, Chapter 13, United States Code (P.L. 281—84th Congress). Also, in the Veterans Administration booklet, FEDERAL BENEFITS FOR VETERANS AND DEPENDENTS and the VA flyer that is included periodically with the dependency and indemnity payments, the following regulations are outlined.

DEFINITION OF SURVIVING SPOUSE

Date of Marriage—To qualify, a surviving spouse must have married the veteran within 15 years after the termination of the period of service in which the injury or disease causing death was incurred or aggravated; or must have been married for one year or more, or for any period of time if a child was born of or before the marriage.

Residence with Veteran--The surviving spouse must have lived continuously with the veteran from the time of marriage until the veteran's death, except where there was a separation due to the misconduct of, or procured by, the veteran without fault on the spouse's part.

Surviving Spouse Remarriage—Remarriage makes a surviving spouse ineligible based on the dealth of that veteran unless the remarriage was void, had been annulled, or terminated in death or divorce. A surviving spouse may also be ineligible if, after the death of the veteran, she or he has lived with another man or woman and held herself of himself out openly to the public to be the spouse. Should such relationship terminate, she or he may reapply for benefits.

The recipients of these regulations have spent their lives supporting their serviceman by maintaining the family unit and contributing in every way possible to the success of his career and his service. They are held in high-esteem in their communities, are extremely patriotic, and possess high moral virtues. This is not an overnight revelation as it has caused great concern and humiliation.

To quote a few responses: "Not only are DIC widows the only group of widows NOT PERMITTED to remarry after age 60 without losing their entitlement and benefits, but the Veterans Administration tries to control their lives."

Another, "Why are only DIC widows singled out?"

Another, "This is a paradox, a veteran can claim a woman as a spouse if she has a child born of or before a marriage, but a widow is castigated before the fact."

Another, "I was a devoted Army wife and mother. Such a way to dishonor my husband's service to this country—he gave his life for this? Such an indignity."

The majority of our DIC widows are too old for this sort of behavior, however, it is of interest to note that the state of Virginia in a recent seventeen page ruling by United States District Judge Robert Merhige, Jr. has stated that the laws on heterosexual acts between unmarried adults and cohabitation are too broad and should not be enforced. Merhige said, "As laudable as these state goals are, they do not justify an absolute prohibition of the exercise of a constitutionally protected activity. The court cannot accept the contention that sexual abstention, forced through criminal sanctions, will encourage or regulate marriage."

In the main, I can assure that the DIC widows encourage and promote traditional marital and family relationships and moral values.

The National Association of Military Widows would appreciate consideration given to this issue.

Thank you again for allowing me to testfiy today on behalf of the military widows. We appreciate your continuing interest in securing appropriate and equitable legislation on our behalf.

This flyer was enclosed recently with all DIC checks. Super_imposed is an Article "Virginia Federal Judge rules" this sort of thing is unconstitutional.

How can the V.A. have the arrogance to dictate to WIDOWS how they must conduct their lives ! ! !

Jan '86

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INTRODUCTION

This pamphlet contains information about your responsibilities in connection with your VA claim for Dependency and Indemnity Compensation.

The DIC (Dependency and Indemnity Compensation) program pays benefits for survivors of veterans who die during military service or as the result of injury or disease related to military service. Survivors of veterans who die while rated totally disabled may also qualify for DIC. The Veterans Administration is responsible for administering the program fairly. This means that we must make certain that you understand your responsibilities. You must report changes in your status which affect your benefit award. You must also comply with routine requests from the VA for information about your claim. Whenever you receive mail from the VA about your award, you should carefully read the material enclosed.

Anytime you have questions about your claim, conditions affecting your right to receive benefits, or correspondence that the VA has sent to you, write or telephone the nearest VA regional office for information. A toll-free telephone number is listed in your local telephone directory or may be obtained from your local directory assistance or "information" operator. Always keep your VA file number handy to identify your claim when you need to call us, or provide the number on correspondence when you write us.

Your monthly benefit rate is dependent on several factors. Although we try to process award adjustments quickly and make sure that you receive a correct payment, we sometimes experience delays in adjusting awards. This pamphlet discusses ways in which you can help us keep your payments correct.

When we are unable to make adjustments to your award timely – whether due to a delay in processing or your failure to tell us information affecting your payment – we are still required by law to adjust your payment from the correct

state. Sometimes delay in ... you to receive benefits ... justment. Often, however, delay will ... your receiving more benefits ...

BENEFITS FOR SURVIVING SPOUSES

DEPENDENCY

You are entitled to additional payment for the veteran's unmarried children in your custody and under 18 years of age. You may also receive payments for the veteran's stepchildren, provided they were members of the veteran's household at the time of the veteran's death.

IF YOU HAVE NOT CLAIMED ALL OF YOUR DEPENDENTS, YOU SHOULD DO SO IMMEDIATELY TO GET THE EXTRA BENEFITS YOU ARE ENTITLED TO RECEIVE.

If you are already receiving additional payments for dependents, you are responsible for reporting immediately any of the following changes:

1. Death of any dependent.
2. Marriage of any dependent.
3. Disappearance of any dependent.
4. Change of custody status for any dependent.

MARITAL STATUS

You must notify us immediately if you remarry or commence a relationship in which you hold yourself to be the spouse of another. Even if you do not remarry "legally" or choose to marry under "common law," we are required to review your continuing entitlement.

SURVIVOR BENEFIT PLAN PAYMENTS

Some deceased veterans elected to provide coverage for their spouses under the Survivor Benefit Plan (SBP). The plan is offered as part of comprehensive military retirement benefits. If you are eligible to receive SBP, the law requires reduction of your SBP payments by an amount ... [illegible] ... or stepchildren. If you are ... receiving SBP, please contact us ... review and adjust your account.

Now Virginia is really for lovers as court backs unmarried sex

Feb '85

RICHMOND, Va. (UPI) — Virginia laws banning unmarried, consenting men and women from living together and having sex were ruled unconstitutional Wednesday by a federal judge.

The ruling "strikes a blow for one's right of privacy," said Michael Morchower, a Richmond attorney who represented the anonymous couple who filed suit. "It's a victory for one who is an adult and who is single engaging in the ordinary acts of fornication."

In a 17-page ruling, U.S. District Judge Robert Merhige Jr. said the laws on heterosexual acts between unmarried adults and cohabitation are too broad and should not be enforced. He noted the laws are only enforced if complaints are received by police.

Records indicate at least eight arrests on fornication charges in Richmond since 1982.

The decision does not affect laws prohibiting homosexual relations or prostitution.

Two Richmond residents, using the pseudonyms of James and Jane Doe, filed suit against Richmond Police Chief Frank Duling and Richmond Commonwealth's Attorney Aubrey Davis alleging the laws violated their rights to privacy, freedom of association and freedom of expression as defined under the Constitution.

Arguing for the state, Duling and Davis said the compelling reason for the fornication statute was to encourage and promote traditional marital and family relationships and moral values.

But Merhige said, "As laudable as these state goals are, they do not justify an absolute prohibition of the exercise of a constitutionally protected activity.

"The court cannot accept the contention that sexual abstention, forced through criminal sanctions, will encourage or regulate marriage." Merhige said

receiving benefits for school attendance must

STATEMENT OF DONALD H. SCHWAB, DIRECTOR, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES

Mr. Chairman and members of the subcommittee: Thank you for the privilege of appearing before this distinguished Subcommittee to present the views of the Veterans of Foreign Wars of the United States.

My name is Donald H. Schwab and it is my privilege to serve the more than 2 million men and women of the Veterans of Foreign Wars as their National Legislative Director.

Mr. Chairman, H.R. 1538, the "Veterans' Compensation Rate Amendments of 1985," introduced by you and cosponsored by Messrs. Solomon, Montgomery, and Hammerschmidt would increase compensation payable to veterans suffering from service connected disabilities, the additional compensation for dependents of veterans rated 30 percent or more disabled, the clothing allowance for certain disabled veterans, and Dependency and Indemnity Compensation (DIC) by 4.1 percent effective December 1, 1985. This is the amount proposed in the Administration's budget and is supported by the VFW.

Having stated the foregoing, should the Congress seriously consider the callous proposal of the Department of the Treasury to tax compensation payments, the VFW urges that the compensation increase be as large as necessary to offset the taxation of this keystone of all veterans entitlements.

Mr. Chairman, the draft Administration's bill entitled the "Veterans' Disability Compensation and Survivor Benefits Amendment of 1985," the Administration's sponsored bill, consists of three titles. Title I would, as H.R. 1538, increase the rates of compensation, additional allowances for dependents, the clothing allowance and DIC by 4.1 percent effective December 1, 1985. However, the Administration's bill would not increase compensation under subsection (k) of section 314, 38 USC. Benefits granted under (k)(2) and (3) were increased by 3.5 percent under the provisions of Public Law 98-223 and by 3.2 percent by Public Law 98-543.

Title II of the Administration's bill would make several changes in current law as follows:

1. Section 201 would delete 38 USC 3012(b)(7), thus reducing or discontinuing compensation, DIC or pension the day following the last day of school attendance of the payee or a dependent of the payee as in the case of a dependent child attaining its 18th birthday. This is a tenable cost-savings measure.

2. Section 202 would amend 38 USC 101(22)(C) to permit full-time duty performed by National Guard and Air National Guard members to be considered "active duty" for Title 38 purposes of the member served continuously in such status 181 days or more. Specifically cited are housing and small business loans under the provisions of chapter 37, 38 USC. The VFW supports this provision as a further incentive for members of the National Guard and Air National Guard.

3. Section 203 would amend 38 USC 101(4)(B)(i) with respect to foreign adoptions and limit the circumstances under which adopted children may be considered dependents by requiring that the adoption was made by the veteran prior to the date of any entitlement to compensation or pension. The purpose of this provision is to thwart spurious adoptions granted by some foreign courts contrived by the veteran for the sole purpose of increasing compensation or pension payments. Since this provision would apply only to an adoption under the laws of a jurisdiction other than a state, territory, possession of the United States, the District of Columbia, Puerto Rico, or the Northern Mariana Islands, and only where the adoptee resides in a foreign jurisdiction, the VFW supports its passage.

4. Section 204 would amend 38 USC 360 by extending the bilateral factor of veterans suffering a permanent service connected disability of one lung rated at 50 percent or more disabling which is totally disabling combination with the nonservice connected disability of the other lung if not the result of willful misconduct. This proposed amendment is an enhancement of the "paired organ impairment" principle and supported by the VFW.

Title III of the Administration's bill would extend the expiring authority of the Veterans Administration to operate a regional office in the Republic of the Philippines until September 30, 1988. Authority for the Veterans Administration to maintain a regional office in Manila has repeatedly been extended since the Philippine Islands were granted their independence on July 4, 1946. The VFW supports this provision as the most cost-effective method of servicing claimants in the Republic of the Philippines.

Mr. Chairman, H.R. 85 introduced by the Chairman and Ranking Minority Member of the full committee, the Honorable G. V. (Sonny) Montgomery and the Honorable John Paul Hammerschmidt, by request, would revise the formula by

which Dependency and Indemnity Compensation (DIC) is computed and paid by the Veterans Administration.

In-service death payments would continue to be made to survivors under the present rank based formula. In addition, and regardless of rank, there would be an added monthly amount based on length of service as follows: less than 4 years, nothing; 4 to 10 years service, $25; 10 to 25 years, $50; 15 to 20 years, $75; and 20 or more years, $100.

In the case of veterans who expire from service connected disabilities following separation from service, regardless of the time intervening, Dependency and Indemnity Compensation would be paid to the survivors under a new formula predicated upon degree of disability for which compensation was paid. The proposed monthly payments would be: $475 if the veteran had been rated at zero percent, $490 if 10%, $505 if 20%, $525 if 30%, $535 if 40%, $555 if 50%, $565 if 60%, $575 if 70%, $600 if 80%, $625 if 90%, $675 if 100%; and for those with extra-schedular ratings, L–R at $750.

The above formulas would become effective December 1, 1985, and those presently in receipt of DIC would be given a one-time opportunity to elect payment under the new formulas.

Mr. Chairman, the above proposal is predicated on the premise that the socio-economic status of a veteran years after separation from the military or naval service and, consequently, that of his survivors, has little correlation to the Armed Services rank attained by the conscripted citizen soldier serving only during a period of armed conflict. Notwithstanding, Dependency and Indemnity Compensation is a benefit to provide partial compensation to the survivors of veterans who expire due to service connected causes or who, under certain circumstances, were permanently and totally disabled at the time of death. Income and need are not factors in determining entitlement since the Nation assumes, in part, the legal and moral obligation of the veteran to support his dependents.

Mr. Chairman, regardless of the honorable intent of H.R. 85, it would not be more equitable than present law. The bill would authorize DIC to the widow of a private citizen soldier whose life is snuffed out in combat $496 a month; but if he were permanently and totally disabled and expired one day or years after service, his widow would then be entitled to $675 per month. In the case of a citizen soldier officer at the 0–6 level with less than four years service killed on active duty, H.R. 85 would pay his widow $909; but if permanently and totally disable and he expired one day or years after separation, $675 a month. Incredulous as it may sound, anyone killed in action or suffering with a service connected disability is totally disabled at the instant of death if, in the latter case, that disability was the cause of death.

Mr. Chairman, H.R. 1537 introduced by you would amend 38 USC to provide for the payment of Dependency and Indemnity Compensation (DIC) to the surviving spouse of a commandant of the Coast Guard at the same rate provided the surviving spouse of a member of the Armed Forces who served as a member of the Joint Chiefs of Staff.

Similar legislation introduced by you during the 98th Congress failed advancement since at the time 37 USC 203 stipulated that Flag Officers serving as chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force or the Commandant of the Marine Corps shall receive higher pay than other Flag Officer serving in the 0–10 pay grade. This incentive pay was not then paid to the Commandant of the Coast Guard and, therefore, DIC paid to the widow would be less than that paid to the survivor of his counterparts in the other services. This impediment was removed by section 35 of Public Law 98–557, the "Coast Guard Authorization Act of 1984," approved October 30, 1984; and the VFW supports passage of the legislation.

H.R. 1568, introduced by the Honorable Marvin Leath, would amend 38 USC 230(a) to require that the Veterans Administration maintain a regional office fully capable of adjudicating and processing claims in each State.

Mr. Chairman, this is the second time that the Administration has made the proposal to consolidate first into one and then into three "benefit processing and support activities" the adjudication of veteran's claims and the maintenance of claims files. The VFW opposes such consolidation in the strongest possible terms since the claimant's access to a full and fair hearing would be greatly restricted representing a serious infringement on the veteran's right to due process. It is essential this legislation to be expeditiously advanced and it is supported by the VFW.

Mr. Chairman, H.R. 1709 introduced by the chairman of the full committee, the Honorable G. V. (Sonny) Montgomery, would increase the maximum amount of Servicemen's Group Life Insurance and Veterans Group LIfe Insurance from $35,000 to $50,000 and extend eligibility for Veterans Group Life Insurance to mem-

bers of the Individual Ready Reserve and the Inactive National Guard which is supported by the VFW.

In addition to the foregoing, Mr. Chairman, there are several other bills pending before this subcommittee addressing compensation, Dependency and Indemnity Compensation, and insurance.

H.R. 183, introduced by the Honorable Robert A. Roe, and H.R. 480, introduced by the Honorable G. William Whitehurst, would amend 38 USC to provide that remarriage of the surviving spouse of a veteran after age 60 shall not result in termination of Dependency and Indemnity Compensation.

Mr. Chairman, most other Federal benefit programs do not terminate benefits if remarriage takes place after age 60, for example:

1. 42 USC 402 authorizes continued Social Security benefits when remarriage takes place after age 60;

2. 5 USC 8341 makes like provisions for civil service annuitants; and

3. 10 USC 1450 does not terminate annuities under the Armed Forces Survivor Benefit Plan when remarriage is after age 60.

Therefore, the VFW supports advancement of remedial legislation to bring the DIC program in line with over similar benefit programs.

H.R. 185 also introduced by Mr. Roe would amend 38 USC to provide mortgage protection life insurance to certain veterans unable to acquire commercial life insurance because of service connected disabilities. This bill fulfills our current resolution, Resolution No. 612, with respect to mortgage insurance for disabled veterans, a copy of which is appended to my testimony.

Mr. Chairman, H.R. 867 introduced by the Honorable Michael Bilirakis would amend 38 USC 3104 to permit certain service connected disabled veterans who are retired membrs of the Armed Forces to receive compensation concurrently with retired pay, without deduction from either.

Mr. Bilirakis' bill would rectify this long-standing inequity visited only upon Armed Forces retirees, not upon those who retire fron Federal civilian employment and not upon those who retire within the private sector. No, only the Armed Forces member retired for length of service must waive a like amount of retired pay in order to receive tax-free compensation for service connected disabilities.

Mr. Chairman, of the 2.2 million veterans in receipt of compensation, some 325 thousand or 14.5 percent are Armed Forces retirees—the only group denied the concurrent receipt of retired pay and compensation. Our current VFW Resolution No. 712 entitled "Reduction of Retired Pay Due to Receipt of Compensation" calls for the elimination of this inequity.

In conclusion, Mr. Chairman, the VFW appreciates the continuing concern of this subcommittee and the full committee for the well-being of our Nation's veterans, their dependents and survivors.

Cited resolutions are appended to my testimony. Thank you.

RESOLUTION NO. 612

MORTGAGE INSURANCE FOR DISABLED VETERANS

Whereas, veterans, because of their service-connected disabilities, may be denied mortgage life insurance protection by being classified as uninsurable by commercial insurers; and

Whereas, veterans because of their service-connected disabilities, may be required to pay higher premiums for such insurance; and

Whereas, only veterans who are entitled to specially adopted housing are currently eligible for such insurance assistance; and

Whereas, we believe that service-connected veterans should not be required to pay higher premiums or be denied such insurance protection for the benefit of their families; now, therefore

Be it resolved, by the 85th National Convention of the Veterans of Foreign Wars of the United States, that we seek the introduction and passage of legislation that will provide for relief from higher insurance premiums or for mortage life insurance for service-connected disabled veterans.

Adopted by the 85th National Convention of the Veterans of Foreign Wars of the United States held in Chicago, Illinois, August 17-24, 1984.

RESOLUTION NO. 712

REDUCTION OF RETIRED PAY DUE TO RECEIPT OF COMPENSATION

Whereas, military retirees are entitled to retired pay based on pay grade and length of service; and

Whereas, any retiree rated service connected to a compensable degree (10% or greater) must forfeit a like amount from his retired pay; now, therefore

Be it resolved, by the 85th National Convention of the Veterans of Foreign Wars of the United States, that we petition the Congress of the United States to enact legislation to allow for the receipt of compensation without a reduction of retired pay.

Adopted by the 85th National Convention of the Veterans of Foreign Wars of the United States held in Chicago, Illinois, August 17-24, 1984.

STATEMENT OF DENNIS K. RHODES, EXECUTIVE DIRECTOR, VIETNAM VETERANS OF AMERICA

Mr. Chairman: VVA appreciates the opportunity to appear before the subcommittee to share our views on some of the legislation under consideration today. We are fully aware that this is a difficult year in veterans affairs, as it is in most domestic programs, where the need for fiscal restraint must be kept in balance with the legitimate needs of the veterans whom we all serve.

I am here today to comment on three of the measures under review by the subcommittee: the 4.1 percent cost of living allowance in the VA's compensation and pension programs, the modification of the dependency and indemnity compensation (DIC) program, and the bill which would require the VA to maintain at least one Department of Veterans Benefits regional office in each state.

Mr. Chairman, VVA supports the provisions of H.R. 1538 which would provide for a 4.1 percent increase in compensation and pension. As we have stated in the past, we are pleased that the President overruled OMB's early proposal to freeze COLAs for the program. We maintain that the only fair freeze has to occur across the board. Since such a freeze appears unlikely, we therefore favor passage of a COLA for compensation and pension. We do not support the COLA increase under the DIC program. Rather, we favor passage of H.R. 85 which would effect major changes in entitlement for DIC.

VVA believes H.R. 85 is long overdue. To award dependency and indemnity compensation to civilians on the basis of prior military rank is to substitute for need an irrelevant distinction not made by virtually any other veterans benefits program. Why should the widow or child of a corporal be treated differently from the dependents of a colonel? We therefore support the more equitable determination of benefits based upon degree of disability which has as its principal feature, an assessment of the degree of impairment to the average veteran's earning capacity.

Mr. Chairman, VVA supports most of the provisions of H.R. 85. We believe, however, that funding for DIC for inservice personnel should be charged against the budget of the Department of Defense, rather than the Veterans Administration, since it pertains to active duty personnel. VVA is also concerned that the bill does not adequately address DIC benefits for the families of the catastrophically disabled veteran. The bill provides for an additional $75 a month for the families of veterans with statutary disabilities described at 38 USC 314(l-r). While budget constraints obviously make it difficult for DIC to provide a sufficient financial cushion for the survivors of all the veterans covered by DIC, we believe that the cushion is particularly thin for the survivors of the catastrophically disabled. Such a veteran may receive over $3000 in compensation per month. Once that veteran dies, his spouse, very often out of the work place for twenty or thirty years, suffers a disproportionate reduction in income. We urge the Committee to remedy this deficiency. We suggest that the Committee structure additional monthly payments to the families which parallel the payment structure found for compensation in Title 38.

Mr. Chairman, VVA has articulated on a number of occasions this year our position on the Administration's proposal to consolidate regional offices into three massive processing centers. We have stated that we thought the plan to be premature and hastily prepared. We are particularly concerned with the location of rating boards which, under the Administration's plan, would be located in the processing centers. VVA believes that this type of consolidation, whether or not such boards would be itinerant, would seriously jeopardize due process in the consideration of benefit claims.

This is not to say that the Department of Veterans Benefits operation cannot be improved. We believe it can. We agree with Administrator Walters that DVB badly

needs modernization, particularly in ADP, to eliminate the Department's continued reliance on claims folders which are the principal cause of most delays in the system.

We assert, however. that this modernization of ADP needs to take place before any consolidation plans are finalized. The VA should contemplate changes in its regional office configuration only when it has a clear idea of what its new ADP capabilities are within DVB. The present plan, otherwise, puts the cart before the horse.

As to the details, however sketchy, of the proposed consolidation, VVA believes that the Administration, as usual, places phantom "efficiencies" before the needs of individual veterans. We do not accept the idea that all claims decision-making can or should take place in three large regional processing centers. Certain types of routine adjudicatory decisions such as education benefits, home loan guaranty eligibility, etc. could conceivably be centralized. But we strenuously object to the movement of the entire claims determination apparatus out of the present regional offices. As I indicated a moment ago, the right of the veteran to appear personally before a rating board is essential to due process, particularly in a system not subject to judicial review. Even if rating boards were made itinerant as the Administration suggests, timely adjudication of claims would be all but impossible. One need look no further than the record of the Board of Veterans Appeals for corroboration of this fact. VA is also concerned with delays in the adjudication of more difficult claims. Very often service representatives need to work directly with adjudicators. Moreover, regional office directors and adjudication officers can often intervene when cases become unduly delayed. If all adjudication were centralized, difficult cases would seldom if ever surface for timely resolution, becoming lost in an enormous bureaucratic mechanism.

In conclusion, Mr. Chairman, we find the Administration's proposal simplistic and certainly unready for implementation. We are pleased to note, incidentally, that the Administrator recognizes the problem. In a March 16, 1985, letter to Budget Director David Stockman, Walters stated that, ". . . efficient management is the key issue. Consolidation will be considered as a possible option, but we are also considering various other alternatives . . . The Agency is developing a plan for modernizing its entire operations."

Mr. Chairman, VVA supports HR 1568 which would mandate maintaining at least one regional office in each state, but we do so with reservations. We believe HR 1568 is most likely necessary to forestall OMB's efforts to consolidate DVB. On the other hand, we also believe that DVB badly needs modernization, and we have some hesitation about any measure which would freeze the status quo and hamper the implementation of ideas which might improve the delivery of service to veterans. Thus VVA would recommend that: 1) the legislation prohibit any reorganization of DVB until a modern ADP system is developed and refined to the extent that any reorganization plan may be fully evaluated in the context of that system; and 2) that the legislation is Section 1, paragraph (a)(1) be amended to read: "not less than one regional office in each state."

Mr. Chairman, that concludes my statement, I would be happy to answer any questions.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC., April 17, 1985.

Hon. DOUGLAS APPLEGATE,
Chairman, Subcommittee on Compensation, Pension, and Insurance, Committee on Veterans' Affairs, Washington, DC

DEAR MR. CHAIRMAN: I recently introduced H.R. 1845, a bill to provide dependency and indemnity compensation for the surviving spouse of a Commandant of the Coast Guard at the same rate as provided for surviving spouses of other armed services chiefs. I understand that this has the same purpose as your bill, H.R. 1537, on which you are holding hearings.

This legislation, as you know, would simply add the Commandant of the Coast Guard to the list of high ranking officers covered under section 411(a) of title 38, U.S. Code, who are entitled to a higher rate of dependency and indemnity compensation (DIC). I understand that a survivor of a former Commandant receiving DIC at this increased rate would receive a net benefit of less than $100 per month. Currently there is only one spouse of a former Commandant receiving this compensation. Therefore, the total budgetary impact for the Veterans Administration would be negligible as it would total only about $1,000 per year per recipient.

In the last Congress I introduced a bill, H.R. 4990, which made various amendments to existing law to improve the management and efficiency of Coast Guard administration. Among the amendments, which were finally enacted in the Coast

Guard Authorization Act of 1984 (P.L. 98–557), were provisions that placed the Coast Guard on an equal footing with other military services. In particular, that law amended the basic pay entitlement and retired pay of the Commandant by applying a special rate of compensation in the same way as it applies to the other service chiefs of the armed forces. We made this change as a matter of equity and fairness believing each of the service chiefs of the armed forces should be entitled to the same compensation.

The legislaton now before your Committee will complete this effort of providing similar benefits to all of the chiefs of the armed services. By doing so, it serves to place the Coast Guard generally on a par with the other services. Too often we forget the Coast Gaurd is a valuable part of our nation's defense. Usually we picture them performing lifesaving search and rescue or law enforcement duties, or overseeing maritime safety. These, of course, are extremely important peacetime activities and, I know in my State of Alaska, are essential for our fishermen and shipping concerns. We should realize that the Coast Guard also stands equally ready to serve our country in time of war or national emergency.

Therefore, I urge you to promptly take up and report this compensation measure favorably. If I can be of any further assistance in accomplishing this goal, please do not hesitate to contact me.

Sincerely,

DON YOUNG,
Congressman for all Alaska.

STATEMENT BY NATIONAL PRESIDENT THOMAS H. MILLER, BLINDED VETERANS ASSOCIATION

I want to thank you for this opportunity to present the views of the Blinded Veterans Association on several pieces of legislation under consideration by this subcommittee.

As you know, the Blinded Veterans Association is concerned with promoting the welfare of America's blinded veterans. We are a unique organization because of our very special and limited focus. Certainly, membership in the BVA is an exclusive club. We are an organization for which we wish there was no need. But, because of the many veterans who live with their blindness and because the numbers of blinded veterans seem to be increasing—partically due to the aging process—the BVA is as vital a service to those veterans going blind today as it has been over the years in responding to the traumatic loss of vision resulting from war injuries. We promote the concept of blinded veterans helping other blinded veterans to adjust to their visual disability. This is the BVA's central focus.

It is time again this year for us to consider cost of living adjustments for service connected disabled veterans and for Dependency and Indemnity Compensation (DIC). But, this year's debate began a long time ago in the newspapers of this nation in that the nation's fiscal condition has been chronicled thoroughly throughout the last year.

All of us know the financial questions now surrounding all cost of living adjustments in federal programs. Although the President proposed in his budget a 4.1 per cent cost of living adjustment, the underlying thought this year has been that there is a real possibility service-connected disabled veterans will be asked to forgo a cost of living adjustment this year to help bring down the national deficit. The history of this nation's disabled veterans speaks clearly to this issue.

When veterans have been asked to sacrifice, they have been willing partners—whether this be on the battlefronts or here at home in times of national emergenices. The nation's current fiscal dilemma has been described by some as just that—a national emergency.

It seems almost redundant to say this point that if asked to make a sacrifice again this year, we will be willing to do our part. In many ways, veterans already are doing their part, however. The reductions in the VA's budget this year and those projected in the medical and construction budgets over the next two years indicate the role carved out of veterans contributions to the current fiscal crisis. But, we do not believe it is unfair to expect that other segments of the population also be required to make a similar sacrifice.

If service-connected disabled veterans receive no cost of living adjustment in disability compensation, then, no group of Americans should receive a cost of living adjustment. Veterans receiving disability compensation should not be treated worse than people receiving benefits from other government income programs.

However, we do now support H.R. 1538 introduced by Chairman Applegate, Representatives Solomon, Montgomery, and Hammerschmidt, which would provide a 4.1

per cent cost of living adjustment. We know very well that this subcommittee is sympathetic to the needs of service-connected disabled veterans. This committee has always considered the compensation issue with extreme fairness during very troubling economic times.

I would also like to take an opportunity to comment on H.R. 85 introduced on request by Congressmen Montgomery and Hammerschmidt which would amend the Dependency and Indemnity Compensation (DIC) system.

We commend this subcommittee for holding a hearing on this legislation. Many veterans groups, including the BVA, have long felt that the existing DIC system causes an undue financial hardship on surviving spouse and dependents.

Currently, DIC rates are determined by the highest rank or grade held in the Armed Forces by the disabled spouse, whereas disability compensation is paid in like amounts for like disabilities. It does not stand to reason that the surviving spouse of disabled veterans should be paid different amounts when those same veterans were paid equal amounts during their lifetimes.

The present policy is based on the rationale that DIC is compensation for lost earnings and that there is a correlation between military pay levels and levels of post-service earnings. Its supporters argue that it would be unfair to ignore service pay grades in the DIC schedules because a veteran who served in a higher military pay grade probably experienced a greater loss of potential earnings than a veteran who served in a lower pay grade.

The BVA has long felt that the previous military grade earned by a veteran and his financial status at the time of death—for the most part—do not have a strong relationship unless the death occurred while on active duty. Also there is not a strong relationship when that service occurred 30 to 40 years earlier. It is inequitable that survivors of two disabled veterans, who as far as compensation is concerned are equal other than their former military pay grades, are treated unequally in the DIC system.

When the BVA submitted its annual legislative program in testimony before a Joint Committee of the House and Senate Committees on Veterans Affairs in late February, we recommended the adoption of a dual system for DIC. The BVA's recommendation was the DIC rate for a surviving spouse of a veteran receiving 100 per cent or higher compensation receive 50 per cent of the compensation paid to the deceased veteran plus a dependency allowance. Because this system might be unfair, then, to the survivors of those killed on active duty, the BVA recommended the existing system be retained. Individuals could choose then in which system they wanted to participate.

For this reason, then, we support the premise of H.R. 85—this being that a dual system for DIC be established—one of in-service DIC paid on the basis of the pay grade of the person while on active duty service and the other for post-service DIC which is based on the percentage of a veterans service-connected disability.

HR 85 makes a substantial contribution to the debate concerning DIC in that it provides a basis for consideration and discussion of the DIC issue. It is a good starting point, but not the point of conclusion. The legislation needs fine tuning, especially in regard to levels of monthly rates for post-service DIC. These levels seem adequate until an examination is made of the monthly DIC rate to be paid to a dependent of a veteran with a service-connected disability rated greater than 100 per cent.

According to HR 85, such a dependent would receive a montly rate of $750. Disability compensation for such veterans in their lifetime would have been as low as $1609 for a veteran rated under subsection (l) to as high as $2255 to a veteran rated under subsections (o) or (p).

According to the schedule proposed, the dependent of a verteran with a 60 per cent disability would receive 120 per cent of the monthly compensation for DIC; a dependent of a veteran with a 90 per cent disability would receive 80 per cent of the monthly compensation for DIC; a dependent of a veteran with a 100 per cent disability would receive 52 per cent of the monthly compensation for DIC. Yet, the dependent of a veteran with a disability rating exceeding 100 per cent would receive from 40 per cent to 33 per cent of the monthly compensation for DIC. In other words, the more severe the disability, the lower the monthly DIC rate.

The monthly rate proposed under HR 85 for such dependents is simply too low and would cause a severe financial hardship. Also, this only perpetuates the inefficiencies existing under current law, except it assigns a new label for such financial hardship—post-service DIC.

The BVA believes that dependents of service-connected disabled veterans with a disability rating exceeding 100 per cent should be treated more equitably. Our proposal advanced earlier this year with some modification would be a more equitable

arrangement. The spouse of a disabled veteran rated in excess of 100 per cent should receive half the compensation level paid to the veteran while he was alive.

Additionally, HR 85 does not make clear that those electing to participate in the post-service DIC system would also be entitled to the benefits under Title 38, Section 411, subsections b,c, and d. We believe these should apply also for the post-service DIC system as well as in-service DIC. This is probably the intention of the bill's authors; however, some language clarifications might be necessary to ensure that subsections b, c, and d apply both to in-service DIC and post-service DIC.

We would also like to comment briefly on HR 1568. HR 1568 would require the VA Administrator to establish a regional office in each state to adjudicate and process claims for benefits under chapters 11, 13, and 15, for loans under chapter 37 and applications for assistance under chapter 39. This legislation runs counter to recent proposals from the VA to centralize many of the functions of the VA regional offices, so in that sense, alone, the legislation introduced by Congressman Marvin Leath is a breath of fresh air. As this committee knows, the BVA stands firmly opposed to any effort to centralize the functions of the VA's existing regional offices. Services provided by the regional offices already are slow and further centralization will only make it more difficult for veterans to receive the assistance they need from the VA. We support the premise of HR 1568 that each state have at least one VA regional office within its borders to ensure that veterans in all parts of the nation are adequately served by the VA.

The BVA has no position on HR 1537 which would provide for the payment of DIC to the surviving spouse of a Commandant of the Coast Guard at the same rate as provided to the surviving spouses of members of the Armed Forces who serve as a member of the Joint Chiefs of Staff. The BVA also has no position on draft legislation which would increase from $35,000 to $50,000 the maximum coverage under the Servicemen's and Veteran's Group Life Insurance programs and extend eligibility for the program to members of the Individual Ready Reserve and to the Inactive National Guard. The BVA is not opposed to passage of either bill.

Again, I want to thank you for this opportunity and I will be very happy to respond to any questions which members of this subcommittee might want to submit in writing.

JEWISH WAR VETERANS OF THE UNITED STATES OF AMERICA
Washington, DC., April 15, 1985.

Hon. DOUGLAS APPLEGATE,
Chairman, House Subcommittee on Compensation, Pension and Insurance, Committee on Veterans' Affairs, Washington, DC.

DEAR REPRESENTATIVE APPLEGATE: On behalf of the Jewish War Veterans of the USA, the oldest active war veterans organization in the USA, I would iike to submit the following statement for inclusion to the Subcommittee hearing record on April 17, 1985.

The Jewish War Veterans of the USA appreciates making our views known on these and other legislative issues that will affect veterans.

Sincerely,

SAMUEL GREENBERG,
National Commander.

Mr. Chairman and Members of the Subcommittee: The Jewish War Veterans of the USA, the oldest active war veterans organization in the USA, is honored to have this opportunity to give our analysis of legislation currently pending before your Subcommittee.

We strongly support the following bills, H.R. 1537, H.R. 1568, H.R. 1709, and H.R. 85 without any reservation. We believe the bills should be marked-up without any amendments and appoved by the full committee. However, given recent events, we are most concerned about any attempts to reduce the cost-of-living allowance for veterans compensation and DIC.

In our testimony outlining JWV's legislative agenda, I commended the VA for protecting and fighting for veterans' COLAs. Unlike other benefits, compensation and DIC payments have been earned by fighting for our freedom. Because of this over-riding fact, increases in compensation and DIC have received strong bi-partisan support. It is becoming apparent that this year may be different. The Senate Budget Committee has decided that veterans should not receive any increase in their compensation and DIC cost-of-living allowances. To compound matters, the compromise struck between the President and Senate Republicans would provide for 2.1 percent increase in social security benefits but still no increase in veterans' compensation and DIC.

This situation is completely unacceptable. Veterans have always supported legislative proposals that call for equal sacrifice. While we recognize the importance of reducing the budget deficit, the White House-Senate Republican compromise fails to meet the test of equal and fair sacrifices. For this reason alone, we strongly support H.R. 1538. We believe the compensation issue must be judged on its own merits and not as part of an omnibus bill.

Your subcommittee can demonstrate your commitment to veterans by approving a 4.1 percent increase in compensation and DIC. It would send a clear message to any member of Congress or the Administration who believe the budget should be balanced on the back of veterans.

Thank you for considering our views.

STATEMENT OF MAURICE E. LOIR, LEGISLATIVE DIRECTOR, MILITARY ORDER OF THE PURPLE HEART

Mr. Chairman and Members of the Committee: The Military Order of the Purple Heart appreciates the opportunity to present our views to the Subcommittee on this proposed legislation. Our comments are basically those of agreement.

First, we fully support H.R. 1538. We are concerned with talk of a budget freeze, particularly as it concerns the cost of living adjustments. If there is to be any freeze, we ask that it be equally applied. If a COLA is denied to the disabled veteran, we ask that the COLA be denied in every other entitlement program.

The draft bill submitted by Administrator Walters has just about the same content as H.R. 1538 as it relates to the COLA, but it contains some other items as well.

Section 201 of the draft bill will delete clause 7 of 38 USC 3012(b). Looking at this from an administrative point of view, we think it much simpler to remain as is, to use the end of the month for any discontinuance of benefit payments. Perhaps in this age of computers, we are wrong as to simplicity, but this does strike us as an example of penny-pinching. Will this proposal really save as much as is estimated?

Section 202 appears to be more of a technical clarification than anything else, and as such, we have no argument with it.

Section 203, regarding adopted children, strikes us as somewhat of an extreme measure. The Administrator cites abuse as the major reason for this proposal and we do not claim to have any special knowledge on this point. However, since it is directed only at adoptions that take place outside of U.S. jurisdiction, we are inclined to support the Administrator.

Section 204, extending benefits in cases of disability with a paired organ, is an item that we can easily support. The same can be said for section 301, which will extend the authority to operate a Regional Office in the Republic of the Philippines. We support both items.

We have no comment on H.R. 1537. Certainly we feel that the Commandant of the Coast Guard, and his dependents, should be treated in the same manner as the other Chiefs of the services.

Our organization strongly opposes the Administrator's plan for consolidation of the Regional Office functions. We much prefer that the structure and function of the Regional Offices remain as is. We fully support H.R. 1568 which would accomplish this.

We do not have any significant comment on the draft bill to increase the coverage under the Serviceman's and the Veterans Group Life Insurance Programs. This appears to be a matter of keeping up with the times.

Finally, the subject of dependent indemnity compensation. While we have long complained about the inequities of the program, we have been slow in trying to offer a solution. H.R. 85 would separate the benefit into two categories, that of in-service death and that of post service death. This is a step in the right direction. We support the concept of DIC benefits based on the degree of disability in cases of post-service deaths. At the same time, we realize that benefits based on pay grade may sometimes be more beneficial. An option would certainly satisfy this point.

In looking at H.R. 85, we are not really clear as to where the option will stand after June, 1986. Will it become a permanent part of the law? We think it should be. Additionally, we do not think that there will be any major difference in the costs of benefits if the option does become permanent. We fully support DIC benefits based on the two categories, that of using the pay grade of the veteran, and that of using the degree of disability of the veteran to determine the amount of the benefit. In all cases of post-service deaths, we feel that this option should be available to the survivor.

Further, we agree with the concept of the 100% and 100%+ that appears on the disability chart in H.R. 85. A differentiation does make sense and we believe this proposal will do a lot toward adding more equity to the program.

Once again, Mr. Chairman, our organization appreciates the opportunity to present our views. Thank You.

STATEMENT OF JOHN F. SOMMER, JR., DEPUTY DIRECTOR, NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION, THE AMERICAN LEGION

Mr. Chairman and Members of the Subcommittee: The American Legion appreciates this opportunity to offer comment on the several legislative proposals dealing with disability compensation, dependency and indemnity compensation, insurance and other important matters that are under consideration by the Subcommittee during today's hearing.

However, before addressing the measures under discussion, may it be said that we are sensitive to the fact that the Administration and the Congress are seriously concerned about the menacing budgetary deficit that faces the Federal Government. Veterans have shared that concern and during the immediate three previous fiscal years have acceded to reductions in veterans programs that have amounted to, on the whole, more than $500 million. The American Legion accepted most of these adjustments because we represent this nation's veteran population, and besides being veterans, these individuals who served in the United States Armed Forces are also responsible citizens. When modifications were being made to all entitlement programs, we believed that veterans should do their share—and we have certainly done just that.

The portion of the total Federal Budget consumed by veterans programs has steadily decreased over the past ten years from a full 5 percent in FY 1975, to 2.7 percent in the current fiscal year. Thus it cannot be said that veterans are receiving more than their fair share of total Federal dollars when in fact that share has been shrinking.

The American Legion knows well the dedication and interest of the Members of this Subcommittee and of the entire Committee on Veterans Affairs in ensuring that economy is not practiced at the expense of the veterans of this nation. We believe that any further reductions in funding for veterans programs would prove seriously harmful to the most needy and deserving VA beneficiaries, and we are confident that this Body will continue to responsibly address the genuine needs of these veterans, their dependents and survivors.

We shall now address the measures currently under consideration.

H.R. 1538—"Veterans Compensation Rate Amendments of 1985."

Section 314 of the title currently provides for the payment of compensation in the amount of $1,295 to those veterans with service-connected disabilities rated 100 percent or totally disabling. Higher rates of special monthly compensation are payable for certain multiple disabilities evaluated in excess of total, based upon the severity of the disabilities. The monthly benefits for those veterans whose service-connected disabilities are evaluated from 10 percent to 90 percent range from $66 to $779.

Additional monthly compensation is provided under section 315 of the title for the spouses, children, and dependent parents of veterans entitled to compensation, and whose service-related disabilities are rated at 30 percent or more.

An annual clothing allowance is provided under section 362 of title 38, to each person who, because of a compensable service-connected disability, wears or uses a prosthetic or orthopedic appliance or appliances that the Administrator determines to wear out or tear the veteran's clothing.

Dependency and indemnity compensation, provided under section 411 of the title, is payable to the surviving spouse of a member of the Armed Forces that was killed in action, or a veteran whose death was the result of a service-connected disability. The rate of DIC provided the surviving spouse is based upon the military pay grade of the veteran upon whose death entitlement is attributed. The pay grades range from E–1 through 0–10, and the current monthly benefits under the DIC program range from $476 to $1,267. In those cases where there is an eligible child or children of the veteran, the rates are currently increased by $53 for each child. Additional payments relating to aid and attendance and housebound benefits for surviving spouses are payable at the rates of $143 and $170, respectively. In addition, sections 413 and 414 of the title provide for specific payments for children of the veteran under certain circumstances.

The latest increases in disability compensation and DIC were provided under Public Law 98–543, and were effective December 1, 1984. H.R. 1538 calls for a 4.1 percent increase in these benefits, as well as in the annual clothing allowance, effec-

tive December 1, 1985. The American Legion is most supportive of cost-of-living increases in the service-connected disability and death benefits, and we feel they should at least be consistent with increases in the Consumer Price Index.

Administration Draft Bill—"Veterans' Disability Compensation and Survivor Benefits Amendments of 1985."

Sections 101 through 107 of this draft proposal are identical to the provisions of H.R. 1538, which we have previously addressed.

Section 21, of the draft would amend section 3012(b) of the title so as to change the effective date of a reduction or discontinuance of benefits that are based upon school attendance. Under current law benefits such as death pension and dependency and indemnity compensation are discontinued as of a child's eighteenth birthday. However, if the child is in school beyond that date, benefits are not discontinued until the end of the month in which the child terminates school attendance, or reaches age twenty-three. This amendment would establish the termination date of benefits as the last date on which the child attended school. In reviewing section 3012 of title 38 dealing with effective dates of reductions and discontinuances of various benefits, we note that the vast majority of the effective dates for such change occur as of the last day of the month in which there is a change in the payee's status. We see no compelling reason to single out the children addressed in this provision and deprive them of this minimal amount of economic support.

Section 202 of the draft would amend section 101(22) of title 38, with respect to the definition of active duty for training. The amendment would permit the full-time operational duty performed by National Guard and Air National Guard members to be considered active duty for title 38 purposes. As defined in section 101 (21)(A) of title 38, active duty means full-time duty in the Armed Forces other than active duty for training. Under section 101 (22)(C), active duty for training, with respect to National Guard members, means full-time duty authorized under title 32, regardless of whether the duty is performed for operational or training purposes. This amendment would limit active duty for training performed by guard personnel to full-time duty performed for training purposes.

We understand that in recent years, members of the National Guard ordered to full-time operational duty, usually to serve as instructors or recruiters, have been assigned active guard and reserve (AGR) status if the duty period is 180 days or more, and active duty support (ADS) status if the duty period is 179 days or less. Apparently these designations have led to some confusion on the part of guard members as to their eligibility for title 38 benefits. Although a guard member on AGR or ADS status, disabled in the line of duty, would be eligible for VA compensation, active duty for training is not qualifying for certain other title 38 benefits, primarily home loan guaranty benefits and health care on a nonservice-connected basis. The amendment made by this section would assist guard members in AGR and ADS status to qualify for benefits on the same basis as other active duty service members and peacetime veterans. The amendment would be effective with respect to duty performed after September 30, 1985. However, guard members in AGR or ADS status as of the date of enactment would be able to include their service prior to that date in qualifying for loan guaranty benefits.

The American Legion has no objection with respect to this proposal.

Section 203 would amend section 101(4)(B)(i) of the title by providing that an adoptee could not be considered the legally adopted child of a veteran for the purposes of benefit eligibility under title 38, unless the adoption occurred prior to the date of any entitlement of the veteran to disability compensation or nonservice-connected pension. The amendment would apply only to adoptions under laws of a jurisdiction other than a state, territory, possession of the United States, the District of Columbia, Puerto Rico, or the Northern Mariana Islands; and only where the adoptee resides in a foreign jurisdiction.

According to the explanatory language accompanying the draft, this proposal is designed to address a longstanding problem concerning recognition of adoption decrees issued under the laws of foreign jurisdictions. It goes on to explain that section 401 of PL 96–22 added new section 101(4)(B) to title 38, providing that a person residing outside the United States adopted under the laws of a foreign jurisdiction shall not be considered the legally adopted child of a veteran unless stated criteria relating to age at the time of adoption, support from the veteran, residence with the veteran, and absence of custody by a natural parent are met. In the case of a deceased veteran, the adopted child must have met the requirements for at least one year prior to the veteran's death or the veteran must have received benefits for the child during the year preceding death.

The introductory information further states that although the amendment enacted in 1979 has been of considerable benefit in combating adoption abuses, experi-

ence with the statute has revealed significant difficulties in administration, particularly in applying custody and residence criteria. And it is known in at least two claims in which VA has recognized foreign adoptions under the amended statute where the motivation for the adoption must be considered suspect. Both claims involved the adoption of children by aged grandparents in receipt of veterans pension benefits. In neither case did the adoption appear to serve any purpose other than generation of additional pension entitlement, and in both cases natural parents remained in close proximity to the adopted children and continued personal contact with them.

Mr. Chairman, in an attempt to reduce the potential for abuse and simplify claim development, this proposal, as we see it, could do more harm by establishing inequities for some veterans than the good it would accomplish with respect to its intent. For instance, any U.S. veteran with a service-connected disability now residing in Canada, Australia, Saudi Arabia, Germany or Mexico, just to name a few examples, would be precluded from drawing increased compensation or additional benefits based upon the adoption of a child while residing in that country. This would particularly affect Vietnam veterans, as they are of the age group most likely to adopt children. It is obvious that this is not the type of foreign adoption that is targeted in the legislation. However, innocent veterans such as those pointed out in the foregoing examples would be adversely affected because of the fact that they reside, many times because of employment, in a foreign country.

It would appear to us that a more prudent and equitable solution could be accomplished through closer adherence to existing law by Veterans Administration personnel who are adjudicating questionable claims such as the two that are mentioned above.

Section 204 of the draft would amend section 360 of title 38, which provides for special consideration with respect to payment of compensation in cases where veterans have suffered certain service-connected disabilities affecting a single eye, ear, or kidney. Under current law, if a veteran has suffered service-connected blindness in one eye, service-connected deafness in one ear, or service-connected loss or loss of use of one kidney, in combination with certain nonservice-connected disabilities affecting the paired organs, resulting in total disability, compensation at the appropriate rate is paid as if the disabilities affecting both organs were service-connected. This section would extend the principle of paired organ impairment to certain disabilities of the lungs. If a veterans has suffered permanent disability of one lung rated 50 percent or more disabling under the relevant criteria, which is totally disabling in combination with a nonservice-connected disability of the other lung, compensation would be paid at the total disability rate.

The American Legion supports the intent of this section inasmuch as severe disabilities of the lungs result in extreme impairment with a shortening of life expectancy, particularly when the paired lung is affected. We will address a similar provision that is contained in a bill, H.R. 1488, introduced on behalf of The American Legion, later in this statement.

Section 301 would amend section 230(b) of title 38 by extending the authority to maintain a regional office in the Republic of the Philippines until September 30, 1988.

The American Legion supports this proposal. Current authorization expires as of September 30, 1985. Absent the extension of authority the Manila Regional Office would cease to function and its operations would have to be transferred to another regional office, thousands of miles from the Philippine Islands. We believe that more economical and efficient service can be provided to the hundreds of thousands of veterans and dependents residing in the Philippines through the continued operation of the Manila Regional Office.

H.R. 1537—A bill to amend footnote 2 of the table in section 411(a) of title 38, by including the Commandant of the Coast Guard in the determination of a special pay grade for dependency and indemnity compensation. The amendment would provide for the payment of DIC to the surviving spouse of a Commandant of the Coast Guard at the same rate as that provided surviving spouses of former members of the Joint Chiefs of Staff.

The American Legion has no objection to this amendment as it serves to equalize the rates of DIC payable to the surviving spouses of the various uniformed service chiefs.

H.R. 1568—This measure would amend section 230(a) of the title, to require that the Veterans Administration maintain a regional office in each state for the purpose of adjudicating and processing claims for title 38 benefits under Chapters 11, 13 and 15, as well as claims for educational benefits under Chapters 30, 31, 32, 34, 35 and 36; applications for loans under Chapter 37, and automobile assistance and

adaptive equipment under Chapter 39. The effective date of the amendment is October 1, 1985.

Mr Chairman, as you are well aware, the Office of Management and Budget has proposed, and VA is beginning implementation, of a planned reorganization and consolidation of field office functions of the Department of Veterans Benefits. The plan is to consolidate DVB benefit and support activities into three regional centers. Activities included would be adjudication of compensation, pension and education claims; loan processing; and support services, including administrative, finance, and personnel functions. The only services that would remain at the regional offices are veterans benefits counselors, vocational rehabiiitation and counseling personnel, compliance survey, and some loan guaranty activities. The proposed consolidation would be carried out over three fiscal years, 1986 through 1988.

The reorganization would eliminate direct service to veterans who are attempting to develop claims for benefits by denying the claimant the opportunity to present his or her claim in person, and with the assistance of a veterans service organization. The individual veteran needs and deserves this opportunity. We are totally opposed to the planned consolidation and reorganization, as we consider it neither reasonable nor practical.

The American Legion strongly supports the intent and purpose of H.R. 1568. The enactment of this measure would end, once and for all, the ability of the Administration to initiate major reorganizations of the Department of Veterans Benefits such as the instant proposal and the short-lived plan that was set forth in March 1981. It appears obvious that the Administration is attempting to circumvent the intent of section 210(b)(2) of the title, thus the immediate enactment of the language contained in H.R. 1568 certainly seems to be necessary.

H.R. 1709—A legislative initiative to provide amendments to the Servicemens' Group and Veterans' Group Life Insurance Programs.

This measure amends section 767 of the title to increase the maximum amount of insurance available under the Servicemens' Group Life Insurance Program from $35,000 to $50,000. It would also amend subsections (a) and (c) of this section to allow purchase of insurance in any amount less than $50,000 that is divisible by $10,000. Subsection (c) is further amended to permit those individuals who had previously purchased insurance in an amount less than the full $50,000 to increase their coverage to the full $50,000 or a lesser amount divisible by $10,000, upon written application, proof of good health; and compliance with such other terms and conditions as may be prescribed by the Administrator. Subsection (d) of section 767, that provides eligibility for SGLI, coverage to members of the Retired Reserve is amended to reflect that individuals who are members on January 1, 1986, may obtain increased coverage in the amount of $50,000 or any lesser amount evenly divisible by $10,000.

H.R. 1709 also amends section 777 to increase the amounts of Veterans' Group Life Insurance that may be issued from a maximum of $35,000 to $50,000, and to allow purchase of any amount less than $50,000 that is divisible by $10,000 under the conditions set forth in the section.

Section 777 is further amended by the additon of a new subsection providing that notwithstanding any other provision of the law, members of the Individual Ready Reserve and the Inactive National Guard are eligible to be insured under Veterans' Group Life Insurance. Any such member shall be so insured upon submission of an application in the manner prescribed by the Administrator and the payment of premiums as required under the section. Notwithstanding subsection (b)(2) of section 777, VGLI coverage shall be issued on a renewable five-year term basis, but the person insured must remain a member of the Individual Ready Reserve or Inactive National Guard through the period of the insurance in order for the member's insurance to be renewed. The effective date of these amendments will be January 1, 1986, if enacted.

The American Legion is supportive of the amendments proposed in H.R. 1709. Members of the Armed Forces and other eligibles would be provided the option of purchasing, at reasonably low cost, addtional insurance protection for their survivors if they so desire. We are aware that the maximum amount of insurance coverage to those eligible under SGLI was last increased from $20,000 to $35,000 under PL 97-66, effective October 17, 1981.

H.R. 85—A measure to amend title 38, to revise the formula for the payment of dependency and indemnity compensation to the surviving spouses of veterans who die on active duty or from service-connected disabilities.

This proposal would amend subsection (a) of section 411 of title 38 to limit entitlement to benefits based upon the table set forth in the chart currently contained in the subsection, to those eligible to receive inservice dependency and indemnity com-

pensation. For the pruposes of the proposal, the term "inservice dependency and indemnity compensation" means DIC paid to a surviving spouse of a person who died in the active military, naval or air service; or to a surviving spouse of a person who died after discharge or release from active military, naval or air service who was awarded DIC effective before December 1, 1985, and who has not made an election to receive postservice DIC.

The term "postservice dependency and indemnity compensation" means DIC paid to a person who is the surviving spouse of a person who died after discharge or release from active military, naval or air service, and is awarded DIC effective on or after December 1, 1985 (or is awarded DIC before that date and elects to receive postservice DIC).

This proposal provides that postservice DIC would be payable based upon the percentage of service-connected disability at the time of the veteran's death. A formula has been established that reflects a monthly payment of $475 if the veteran's disability was evaluated a 0 percent at death, up to a monthly benefit of $750 if the disability of the veteran was rated at 100+ percent (meaning total disability and entitlement to special monthly compensation).

With respect to inservice DIC, as previously mentioned, monthly payments would be based upon the current table contained in section 411a of the title, and would be increased based upon the amount of active duty served by the veteran. The formula relating the amounts of active duty served to the montly DIC increase reads as follows: less than 4 years—$0; 4 years but less than 10 years—$25; 10 years but less than 15 years—$50; 15 years but less than 20 years—$75; 20 or more years—$100.

Mr. Chairman, it is obvious that substantial amounts of time and effort were incorporated into the development of this proposal. However, we are puzzled in our attempt to determine the rationale behind the proposed changes.

The use of the percentage of service-connected disability of the veteran at time of death may have some validity. However, it appears to us neither to be necessarily more equitable than the current DIC program, nor a substantial improvement over the manner in which the benefits are currently paid.

During our analysis of H.R. 85, we concurrently scrutinized the present DIC program, and re-reviewed the study conducted pursuant to section 204 of PL 94-433 entitled "Evaluation of Benefits under the Dependency and Indemnity Compensation (DIC) Program." A comparison of the monthly DIC payments under the present program to the respective military pay rates reflected in the 1984 Uniformed Services Almanac, indicates that surviving spouses of enlisted men in the lower grades, or veterans who were discharged from service at those grades, receive approximately 50 percent of the base pay for the particular grade. For the more senior enlisted grades and junior officers, the percentage of DIC to base pay decreases to about 33 percent, and for the senior officers it is further reduced to approximately 25 percent.

It is additionally noted that whereas the base pay of an E-1 is 58 percent of the base pay of an O-1, the DIC rate for the surviving spouse of an E-1 is 79 percent of that paid to the surviving spouse of the O-1. In the case of an E-9 with over 20 years service, the base pay is approximately 58 percent of that of an O-6 with identical service, and the respective DIC rate is close to 74 percent of that paid to the surviving spouse of the O-6.

So it is obvious that the current DIC rates are weighted in favor of the lower grades as was pointed out in Chapter X of the DIC study, dealing with evaluation and alternative proposals. The following information is excerpted from Chapter X:

"The question this study is to address is whether the dependency and indemnity compensation payments to surviving spouses should continue to be based on the pay grades of the deceased veterans, and if so, to what extent. In an attempt to answer this question and those of the nature and extent of the Government's obligation to a surviving spouse, information was sought from a sample of 19,105 surviving spouses currently on the dependency and indemnity compensation rolls. A questionnaire format was used to obtain information from the surviving spouses regarding the amount and sources of their incomes whether they had availed themselves of Veterans Administration educational assistance, their educational attainment and that of their deceased spouses. The overall response rate to the questionnaire was 83.5 percent. We believe that the infomation obtained is statistically valid, subject to the limitations discussed in the Technical Notes.

"Based upon the information obtained in connection with this study, certain generalizations concerning the dependency and indemnity compensation recipient population can be made. The incomes of surviving spouses of those veterans who had attained higher military rank are, on the average, higher than those of lower ranking veterans' survivors. Also, the levels of educational attainment for veterans and

their surviving spouses do, on the average, bear a postive relationship to the attained military rank of the veteran.

"It is clear that the amount of financial loss to dependents of a serviceman or woman who dies on duty is generally related to the deceased's military pay grade. If the dependency and indemnity compensation program is to compensate for loss of earnings, then it is not unreasonable for the benefits rates to reflect to some extent previous military pay levels.

"For the in-service death of a young draftee who possessed high post-service earning potential, sole reference to low in-service rank may be regarded as inappropriate. Calculating such potential future earnings, however, would undoubtedly be difficult and require and exremely complex payment system which would be delay-producing and difficult to administer. Further, the argument can be made that referencing DIC rates to military pay grade is also less applicable in the case of veterans whose deaths occur post-service, perhaps as long as thirty or forty years hence. While their deaths are no less 'service-connected' than a serviceman's their financial situations at death are less apt to be related to their service pay grades. Evidence of that may be found in the fact that, as reported in Chapter VII (supra), the percentage of veterans who attended college after service does not vary significantly among pay grades.

"Because most of the current dependency and indemnity compensation cases are based upon post-service deaths (61%), it could be argued that consideration should be given to creating separate rates of benefits for survivors of these veterans, either flat rates (analogous to the disability compensation rate structure) which make no reference to service rank or rates somehow tied to the deceased's income at death.

"Careful analysis, however, convinces us that the current dependency and indemnity compensation rate structure is an acceptable compromise between the two extremes of payments based strictly upon service rank, and flat rates which totally ignore service pay grades attained. While the present structure is graduated and provides higher rates for the higher service pay grades, it is 'weighted' in favor of the lower grades to assure that survivors have incomes which place them above the national minimum standards of need. The current rate structure compresses the difference in pay rates between an E–1 and an 0–10, such that there is much less relative variation in the payable DIC rates than in the military pay grade amounts. The rates of DIC payable for those survivors of individuals of lower military rank are proportionately higher, in relation to their military pay rates, than for those of the higher military ranks. . ."

Chapter X of the study goes on to illustrate mean income levels of DIC recipients, and to discuss the advantages and disadvantages of four alternative courses of action. It must be kept in mind that the following mean incomes are at 1977 dollars and, therefore, would be higher in 1985:

"Surviving spouses with dependents are entitled to Social Security Survivors Benefits. These Federal payments, coupled with DIC and the additional DIC allowance for dependents will in every case insure that the family unit is maintained at a level well above the national minimum standard of need. Our survey found that the average total mean income, including DIC payments, for all surviving spouses totaled $8,062.46 per year. This mean income by pay grade ranged from $6,023.47 for survivors of E–1 personnel to $14,050.30 for survivors of 0–7 to 0–10 personnel.

"Serious consideration has been given the following alternative courses of action:

1. BENEFITS BASED ON PAY GRADE AND YEARS OF SERVICE

Under this alternative, the DIC rate payable to a surviving spouse would be computed as a specified percentage of the deceased's basic military pay. The deceased's basic pay would be calculated based on his/her pay grade and cumulative years of service.

Advantage:

Recognition would be given to the economic status attained by a veteran during his/her military service, similar to that given under Federal Civil Service or private industry survivor benefit plans.

Disadvantages:

While possibly equitable to the long-term career soldier, this benefit computation method would disadvantage survivors of both the newly inducted recruits killed in action after only a few months military service, and the veteran with a short period of active military service whose death occurs after return to civilian life.

Essentially, this alternative would be a return to the benefit computation formula contained in the original DIC law. Other disadvantages include: administrative cumbersomeness, since this formula would result in a multiplicity of monthly rates; and, administrative cost, since each DIC surviving spouse case would require certification of the deceased's basic pay. Additional expense would be required if it were to apply retroactively.

2. FLAT MONTHLY RATE

Under this system, a fixed flat montly rate would be payable to all surviving spouses without regard to the deceased's military pay grade.

Advantages:

Would treat all surviving spouses equally.
Simplicity of administration.
Would recognize that the income of a veteran who dies after service is not necessarily dependent upon the military grade attained.

Disadvantages:

Essentially, would reinstitute the benefit payment system in effect prior to the enactment of the original DIC law, with the perceived inequities which led to its revision.
Would give no recognition to the economic status attained by a veteran during his/her military service.
The needs and life style experienced by a colonel's spouse might vary considerably from those experienced by a private's spouse, and a flat rate would not reflect this realization.
Could be costly to implement, depending upon the rates set. To get 100% of the present beneficiaries to elect, the new rate would have to be set at the level of the highest DIC rate or above. If set at the mid-point, the cost would be less, but still considerable.
If considerable members of beneficiaries had to be 'grandfathered,' the Veterans Administration would have still another DIC system to administer. As long as these grandfathered beneficiaries existed, they would be receiving different treatment from that accorded new beneficiaries.

3. FOUR PAY GRADE SYSTEM

Under this system, the pay grades upon which DIC is based would be reduced from 23 to 4. This could be accomplished by clustering pay grades and having a single DIC rate for each cluster, but paying a higher DIC rate for each higher pay rate cluster. Pay grades, for example, could be clustered as follows:
I—Pay Grades E-1 to E-4; II—Pay Grades E-5 to E-9; III—Pay Grades W-1 to 0-3; IV. Pay Grades 0-4 to 0-10.

Advantages:

Encourages higher military grade attainment.

Disadvantages:

Within a given pay grade class, the rate payable could be greater or lesser than the amount currently payable; grandfathering of those on the rolls would be required to prevent a reduction in the amount currently being received by some.

4. RETENTION OF CURRENT BENEFIT FORMULA

Under the current formula, the DIC rate computation is based on the deceased's military pay grade as defined in title 38, United States Code, section 402, without regard to cumulative years of active service.

Advantages:

Retention of the current system would result in no additive costs. It provides a "floor" rate which assures an income above the national minimum standard of need for all beneficiaries, yet recognizes military attainment.

Disadvantages:

It not totally reflective of the economic status attainted by the deceased during his/her military service, and is not related to post-service economic status of those who die of service-connected disabilities post-service.

Discussion:

"As directed by Congress, this study has been aimed at measuring and evaluating the adequacy of DIC benefits, and at determining whether, or to what extent, benefits should be based upon military pay grade.

"Passing judgment on the adequacy of current DIC benefits requires one to resort to subjectively chosen standards; the current program either is or is not adequate depending upon the yardsticks employed. It may be that there is by definition no one system that will satisfy all. Givern the pragmatic imperative of devising a system, however, it is necessary to adopt reasonable compromises.

"It can be argued that this is how the current DIC system has evolved, and that it is a product of continuous refinement. We believe that the scale of rates, as adjusted over the past several years to accommodate changes in the cost of living, fullfills the purposes of this program in a reasonably adequate manner.

"Whether or not survivor's compensation rates should be related to the decedent's military pay grade is a difficult and perhaps impossible question to answer definitively. We have had it both ways. Congress, after exhaustive study, in 1956 adopted the recommendation of a Select Committee on Survivor Benefits to relate DIC benefits to military pay. While there are arguments on this issue pro and con, we are of the opinion that there is more justification for continuing the present policy. We would consider it retrogressive to return to a posture once tried and found wanting.

"it is also important to bear in mind the differences in the philosophies that underline the compensation and pension programs. The former is designed to compensate for loss to veterans for impaired earning capacity, and to survivors for loss of support. Pension, on the other hand, is intended to alleviate the need of those in unacceptable income categories.

"Proponents of a flat rate DIC payment to surviving spouses argue that the needs of all such spouses are not dependent upon the pay grade of the deceased. While this is true, is assuring that all eligible beneficiaries have an income which leaves them above a national minimum standard of need, the degree of additional support a survivor would normally anticipate if no death occured would depend on the socio-economic attainment of the wage earner. In all of our jurisprudence, tort awards in death cases take cognizance of a decendent's achievement and stature in society. Thus, as intended, DIC compensates for loss of support.

"The question remains as to what extent benefits should be based upon military pay grade. In most annuity programs the relationship is a straight-line, fixed one. However, in these programs, payments are based on actuarial formulae and predicated on contributions to a fund. This situation does not pertain to service personnel, who make no contributions and whose demises may occur abruptly and long before realization of their full earning potentials. Consequently, while we believe that there is reason to take military pay grade into account, we do not believe that total reliance on this variable as a determinant of DIC pay rates is justified. The present DIC pay scale represents a judicious compromise which, as compromises go, cannot completely satisfy the advocates of flat DIC rates nor the advocates of DIC rates based on a fixed percentage basis of military pay. It does in the main give appropriate recognition to both philosophies.

"We believe that any significant departure from the current program would not only be costly, but would not, in our opinion, be more equitable than what now exists.

Recommendation:

"That the present rate structure of DIC be retained, but that provision be made for continued adjustment as the cost of living and the national minimum standard of need fluctuate."

The American Legion reviewed the DIC Study when it was released in 1978, and could not argue with the logic of the findings and recommendation that were set forth in the evaluation. Nor can we argue with it now.

Another point for consideration is the administration of the program. The original DIC program became effective on January 1, 1957, replacing death compensation. The payment formula directly related the monthly benefit rate of the surviving spouse to the deceased's military grade and years of active service, resulting in a complicated benefit rate structure. The benefit rate structure was completely revised under provision of PL 91-96, effective December 1, 1969, by eliminating the length of a veteran's active service as a factor in determining the DIC payable to a surviving spouse. A fixed benefit rate for each pay grade and a higher scale of payment for all beneficiaries replaced the prior complex rate structure. Subsequent improvements have been made in the program.

Over the past several years, resolutions calling for changes in the structure of the DIC program have consistently been rejected by the Delegates to the Legion's National Conventions. The resolutions have been rejected because of the fact that although the current program may not be perfect, no other proposal brought forth has proven to be any more fair or equitable.

With respect to H.R. 85, as was previously stated, the proposal to establish a two-tiered approach may have some validity. However, we are not convinced that it is more equitable than the program now in existence, nor does it appear to provide a substantial improvement with respect to the manner in which DIC benefits are paid.

It is apparent that this approach would be impractical if not impossible to administer because of the multiplicity of factors that would have to be considered in the adjudication claims for benefits.

Upon careful consideration of all aspects of the issue, The American Legion cannot support the intent of this measure.

Mr. Chairman, we would like to invite your attention to a legislative proposal that was mentioned earlier in the statement, H.R. 1488, which would amend section 314(k) of title 38, to provide for additional compensation for any veteran who has suffered the loss or loss of use of one lung or one kidney.

Veterans who have suffered the loss or loss of use of a lung or kidney due to a service-connected disease or disability are severely impaired, and face a decreased life expectancy, particularly if disease subsequently affects the remaining organ. Section 314(k) currently provides special monthly compensation in the amount of $62 if a veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of one or more creative organs, or one foot, or one hand, or both buttocks, or blindness of one eye having only light perception, or has suffered complete organic aphonia with constant inability to communicate by speech, or deafness of both ears, having absence of bone conduction.

Due to the debilitating effects and reductions in life expectancy for those veterans who have suffered anatomical loss or loss of the use of one lung or one kidney, we feel that they should be equally compensated. The amendment proposed by H.R. 1488 would eliminate this inequity and provide special monthly compensation to these veterans.

Mr. Chairman, that completes our statement.

STATEMENT OF ROSEMARY A. LOCKE, DEPENDENCY AND INDEMNITY COMPENSATION STUDY GROUP, NATIONAL MILITARY FAMILY ASSOCIATION

Mr. Chairman and Members of the Committee: The National Military Family Association (NMFA) is a volunteer, non-profit organization of family members and personnel (active duty, reserve or retired) of the seven uniformed services. NMFA seeks to inform and educate military families and the public about issues affecting the quality of military family life. We welcome this opportunity to express our views on Dependency and Indemnity Compensation (DIC) and to ask for your continued support of this program.

Military service is an honorable and unique way of life. It is not just a job, but a 24 hour-a-day commitment to serve when called during peace-time as well as war. It is also very demanding way of life for military families. They share in that commitment and the sacrifices it requires. Hazardous or stressful duty, separations or imposed and frequent relocations are a routine way of life. All too often, the ultimate sacrifice of death or disablement of the service member is made in the line of duty. The tragic death of Major Arthur D. Nicholson, Jr. in East Germany poignantly reminds us of this.

The very nature of service life makes it virtually impossible for a service member to provide a financially secure future for his family without government subsidized programs such as DIC, the Survivor Benefit Plan and Servicemen's Group Life Insurance (SGLI). Even with the pay raises of recent years, service families usually experience significant financial losses each time they move. They are not adequately reimbursed for these moves in terms of our-of-pocket expenses or the sale or purchase of housing.

Relocation overseas or to isolated locations disrupts the employment or educational opportunities of military spouses. Since service families move on the average of every 2½ years, few employed military spouses have the opportunity to rise above entry level positions. Moreover, they are unlikely to qualify for their own retirement plans or long-term benefit programs. Thus, upon the death of the service member, surviving spouses are less likely to have financial security available from their own employment than are their civilian counterparts. Many service widows

who have had no prior opportunity to develop marketable skills are thrust into the labor market for the first time while burdened by the shock of family tragedy. Their situation is compounded if they were living overseas or in military quarters. Often they must vacate the quarters soon after the military member's death. These service families frequently have no real estate equity elsewhere since home ownership is difficult or impossible for a mobile military community which may require the military member to reside in military quarters or overseas. (Government housing is highly desirable for many service families on active duty, but the lack of real estate equity can be a very serious problem upon retirement or death of the service member.)

The children of service members, though young, are called upon to share in the difficulties of service life. Frequent separation from a parent with an awareness of the hazardous nature of that parent's duty, and frequent moves disrupting education, friendships, sports and a social life are all part of their lives. Their civilian parent often must act as the sole parent for long periods.

Since 1957, Dependency and Indemnity Compensation benefits have helped alleviate the financial hardships and meet the educational needs of survivors of uniformed service members. It is imperative that a strong DIC program continue. Currently, DIC affords the surviving service family the means to continue, though usually at a reduced standard of living. The National Military Family Association wholeheartedly supports the proposed 4.1% increase in DIC payments for survivors. The increase would be particularly important for the older military widow receiving DIC benefits. Substantial employment is rarely available for them. Older widows or widows of many years have frequently exhausted other financial resources and may be primarily dependent on DIC and Social Security. These widows are faced with increasing financial demands due to growing health care and housing costs.

The Dependency and Indemnity Compensation program is extremely important to the military community, especially to those on active duty. Financial security for family members is a significant factor in the decision to remain in military service for the large proportion of military personnel who are married. They must be reassured that their dedication to the needs of their country and their sacrifices will be compensated by financial protection for their survivors in case of tragedy. Congressional support of a strong Dependency and Indemnity Compensation program will help in the retention of a dedicated career force. It will show service members and their families that their needs are recognized and that they can count on a fair compensation program.

The National Military Family Association also supports an increase in SGLI from the current $35,000 to the proposed $50,000. Previous years of inflation have made the current amount of insurance totally inadequate for most service families.

As in previous testimonies before this committee, The National Military Family Association requests that you enact legislation which would enable military widows to remarry after the age of 60 without forfeiting DIC benefits. Many of these widows lead lonely lives due to the premature death of their military spouse. Now, because of financial considerations due to the loss of DIC, some of these women are forced to continue to live lonely lives or accept life-styles which are morally offensive to them.

The National Military Family Association in its Newsletter and through workshops has and continues to stress the value of Dependency and Indemnity Compensation benefits for the families of deceased or disabled service members. We thank you for this opportunity again to comment on DIC, a program which is of vital importance to military families.

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